00024111

BOMBAY BRANCH
OF THE
ROYAL ASIATIC SOCIETY.
TOWN HALL, BOMBAY.

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018

SIR JOSEPH NAPIER

BY THE SAME AUTHOR.

THE LIFE
OF
PRINCE CHARLES EDWARD STUART.

'Mr. Ewald's interesting life of the Young Pretender is the best account of that personage which has yet appeared, and contains information inaccessible to, or at least overlooked by, those who had previously dealt with the subject.'—TIMES.

'Mr. Ewald has examined and made excellent use of a mass of papers regarding the Prince's life which have been lying untouched and unheeded at the Public Record Office. With great care, and by exercising sound judgment as to what was really worth printing, he has selected from the piles of diplomatic dust and rubbish much that helps to give the reader an insight into the character of Charles.'—SPECTATOR.

'Full of interest, both for the ordinary reader and the historical student.'—DAILY NEWS.

'He has exercised sound discretion in selecting authorities, and his conclusions are based upon a critical investigation of evidence that is almost judicial in its severe impartiality.'
STANDARD.

STORIES FROM THE STATE PAPERS.

'The whole book is interesting, and we can heartily recommend it to all readers who like true romance better than fictitious ones.'—SPECTATOR.

'The sketches are full of interest. Mr. Ewald has told his stories simply and graphically, and with the instinct and touch of a true historian.'—BRITISH QUARTERLY REVIEW.

'The essays cover the wide period of three centuries, and several of them show the wise and scholarly use to which the author can put the contents of the Record Office.'
ST. JAMES'S GAZETTE.

'Mr. Ewald shows how fully the opinion of Bishop Nicholson—that the public records of this country "excel in age, beauty, correctness, and authority whatever the choicest archives abroad can boast of a like sort"—is borne out by the researches that have been made into this treasure house of national history. He has selected for the most part as the subjects of the "Stories" episodes about which some special romance or mystery has been attached, and on which new light has been thrown by the labours of the editors of our historical documents. No one who takes interest in English history will fail to find either solid information or romantic interest in his pages.'—SCOTSMAN.

'The "Stories from the State Papers" are, for the most part, very good reading.'
SATURDAY REVIEW.

STUDIES RE-STUDIED:

HISTORICAL SKETCHES FROM ORIGINAL SOURCES.

'Both intelligence and industry are apparent in these Studies. It is of the utmost importance when a writer treats of historical characters that reference should be made to historical documents. This Mr. Ewald has done, and much of the matter contained in these pages has never before seen the light. The essays are highly interesting.'—TIMES.

'This is a capital book. Mr. Ewald is favourably known already by his "Stories from the State Papers" and by his Histories of the Young Pretender and Algernon Sidney. These "Historical Sketches" are worthy of his reputation, and will increase it. He writes history well. His touch is light and his judgment sound. His sketches are twelve in number, and all are well worth reading.'—ST. JAMES'S GAZETTE.

'The volume is very readable. Mr. Ewald depicts his scenes and tells his stories as if they interested him thoroughly, and it will be strange if he does not interest his readers.'
ATHENÆUM.

Ever most faithfully
Joseph Natal

Engraved by G. J. Stodart from a Photograph

London. Longmans, Green & Co.

THE LIFE

OF

SIR JOSEPH NAPIER, BART.

EX-LORD CHANCELLOR OF IRELAND

FROM HIS PRIVATE CORRESPONDENCE

24111
a

BY

ALEX. CHARLES EWALD, F.S.A.

AUTHOR OF 'LIFE AND TIMES OF THE EARL OF BEACONSFIELD' ETC.

'My religious views are not popular, but they are the views that have sustained and comforted me all through my life. They have never been disguised, nor have I ever sought to disguise them. I think a man's religion, if it is worth anything, should enter into every sphere of life and rule his conduct in every relation. I have always been, and please God always shall be, an Evangelical of Evangelicals, and no biography can represent me that does not fully and emphatically represent my religious views'

The Life and Work of the seventh Earl of Shaftesbury, K.G.

LONDON

LONGMANS, GREEN, AND CO.

1887

All rights reserved

923.2415
Nap/Eura/Lif
24111

PRINTED BY
SPOTTISWOODE AND CO., NEW-STREET SQUARE
LONDON

To

THE RIGHT HON. LORD ROWTON.

Dear Lord Rowton,

You have been kind enough to say that you would allow me to dedicate this volume to you. There are two reasons why I wish your name to be connected with the book. Throughout his life my husband was a warm admirer of Lord Beaconsfield, with whom, when Mr. Disraeli, he was closely associated in the House of Commons. I look upon it, therefore, as a pleasure to be permitted to inscribe this biography to one who is known everywhere as the great friend and confidant of the most brilliant statesman of this century.

Nor is political sympathy the only bond of union between us. It is in memory of your friendship for my dearly beloved eldest son that, as you so touchingly said, you accepted 'the honour of this dedication because you knew he would like it.'

Believe me, dear Lord Rowton,

Yours very truly,

January 26, 1887. *C. NAPIER.*

PREFACE.

It had been the intention of Mrs. Gardiner, the third daughter of Sir Joseph Napier, to write the biography of her Father. For that purpose she had collected all letters and papers bearing upon the public career of Sir Joseph, and had received the necessary permission from the owners, or the representatives of the owners, for their publication. Unfortunately, when all the material was ready to her hand, she was compelled at the last moment to abandon her task by a departure, which could not be postponed, for India. Under these circumstances I was asked by Lady Napier to proceed with the object which Mrs. Gardiner was now no longer able to carry out. The issue of this volume is my answer to that request. I have to express my thanks to Mrs. Gardiner for so materially lightening my labours by her excellent arrangement of the MSS. upon which this political biography is based.

London: *January* 1887.

CONTENTS.

CHAPTER I.

EARLY DAYS.

PAGE

Sameness in the lives of lawyers—Character of Sir Joseph Napier —His birth—Educated under Sheridan Knowles—His precocity —Enters Trinity College, Dublin—The Oratorical Society—Revival of the Historical Society—Napier's connection with it —Testimony of Lord Ashbourne—Influence of Napier over young men—The late Earl Cairns—The Rev. Teignmouth Shore—Protestantism and Conservatism of Napier—Opposition to Popery—Marriage—Reads for the Bar—Gray's Inn—Mr. Justice Patteson—Called to the Irish Bar—Early successes—*The Queen* versus *Samuel Gray*—Skilful conduct of the case—Takes silk—*Lord Dungannon* versus *Smith*—Member for Dublin University—Speech on that occasion—State of parties in the House of Commons—Opposed to abolition of capital punishment —Speech on Tenants Bill (Ireland)—Opposes Jewish emancipation—Political conduct during his first Session—The National Club—Speech at meeting of—Consistency of Napier's career . 1

CHAPTER II.

IRISH QUESTIONS.

Condition of Ireland—Suspension of Habeas Corpus Act—Napier approves of it—Unofficial adviser of the Government—Champion of the Irish Church—Foes in the Reporters' Gallery—Ministers' money—The Rate in Aid Bill—Speech on the subject—Opposes Marriage with Deceased Wife's Sister—Motion of Bernal Osborne for reduction of Irish Church—Speech against—Irish Education Bill—Advocates study of the Bible—Rises in estimation of the House—His connection with Irish subjects—Opposes abolition of Viceroyalty of Ireland—Death of Sir Robert Peel—Ecclesiastical Titles Bill—Napier supports it—Inutility of the measure 52

CHAPTER III.

OFFICE.

PAGE

Fall of the Russell administration—Lord Derby Prime Minister—His Cabinet—Appointment of Napier as Attorney-General for Ireland—His satisfaction—Weakness of the Derby Government—The General Election—Napier introduces his Land Bills—Nature of the scheme—Speech upon the subject—The measure opposed—Aid of Lord Derby solicited—Napier writes to the Duke of Newcastle—The Land Bills are not passed—Subsequent testimony of Mr. Disraeli and Mr. Gladstone to value of these Bills—Resignation of Lord Derby—Napier quits office—His delicate health—Relations between Lord Eglinton and Napier—Irish policy of Lord Eglinton—The Aberdeen Cabinet—Disgust of Napier with politics—The position of an Irish Conservative—The Canadian Reserves Bill—Opposed by Napier—The Six Mile Bridge affair—Letter to Lord Derby on the subject—The honorary degree of D.C.L. conferred upon Napier—Letter of thanks to Lord Derby 81

CHAPTER IV.

THE TURNING OF THE TIDE.

Napier and the Crimean War—Advocates inquiry into convents—Legal education—Favours establishment of special schools for Inns of Court—Vindicates Protestant character of Dublin University—Opposes Marriage with Deceased Wife's Sister—Purity of the Irish character—Speech against Lord John Russell's Oaths Bill—Fall of the Aberdeen Cabinet—Political overtures—Lord Derby—Lord John Russell—Lord Palmerston Prime Minister—Napier to Lord Derby upon the position of affairs—Dislike of Lord Palmerston—Department of Public Justice—Speech in favour of it—Church Education Society—Retirement of Bishops of London and Durham—Opposes opening of British Museum and National Gallery on Sundays—Speech in favour of observance of the Sabbath—Congratulations upon it—'Speaks like a Napier' 114

CHAPTER V.

LORD CHANCELLOR.

PAGE

Our 'little difficulties'—Case of the *Arrow*—General election—Mr. Gladstone to Napier on state of affairs—Napier in favour of a coalition—Ritualism—High Church and Low Church—The *Record* attacks Lord Derby—Napier defends his chief—'Lying scandals'—Triumph of Napier at the poll—Informs Lord Derby of the fact—Result of the elections—Plot of Felice Orsini—Indignation in France—Conspiracy to Murder Bill—Supported by Napier—Tactics of Mr. Disraeli—Fall of Lord Palmerston—Lord Derby again sent for—His Cabinet—Appointment of Napier as Lord Chancellor of Ireland—Vacillation of Lord Justice Blackburne—Firmness of the Prime Minister—Popularity of Napier—Congratulated by Lord Wensleydale, Lord Chelmsford, Justice Patteson, Archbishop of Armagh, and others—Presented with an Address by the Irish Clergy—Invites Mr. Disraeli to visit Ireland—Association for Social Science held at Liverpool—President of the Jurisprudence section—Address of Napier read by Earl Russell—Nature of the address 144

CHAPTER VI.

LEISURE.

Resignation of Lord Derby—Offer of seat on Judicial Committee of Privy Council to Napier—Proposal falls through—Letter from Lord Campbell on the subject—Testimony from Lord Justice Blackburne and Lord Eglinton—The Judgments of Lord Chancellor Napier edited by Drury—Presentation of copies of the work—Acknowledged by various persons of distinction—Visit of Napier to Italy—Disapproval of the Russell foreign policy—Meets Charles Lever—Opinion upon the state of Italy—Criticism upon sight-seeing—Portrait of the Cenci—Visits Mrs. Elizabeth Barrett Browning—Value of political consistency—Comment of Mr. Disraeli upon it—Napier changes opinion upon the Education question—Follows the lead of the Archbishop of Armagh—Thoughts of Napier upon Education question—Attacks upon him—Course pursued by him judicious—Addresses Social Science meeting at Dublin—Famous speech at meeting of Church Missionary Society—Advocates admission of the Bible in Government schools of India—Lectures on

PAGE

Edmund Burke and Butler's 'Analogy'—Mr. Gladstone on Butler —Attendance of Napier at Church Congresses—Opinion of Lord Derby as to utility of these Congresses 189

CHAPTER VII.

ECCLESIASTICAL.

Attacks upon the Irish Church—Motion of Mr. Dillwyn—Letters of Napier to Mr. Disraeli on Irish Church—Fate of Mr. Dillwyn's Motions—Royal Commission to consider forms of subscription required from the Clergy—Napier a member of it —Pledges demanded from the Clergy before accepting preferment—Report of the Commission—Alterations effected by the Commissioners—Prominent part in work of Commission taken by Napier—Testimony from the Archbishop of York and Dr. Goodwin to this effect—Passing of the Religious Tests and Subscriptions Bill—Controversy between Napier and Dr. Milman, Dean of St. Paul's—Pamphlet of Napier maintaining necessity of subscription—Napier to Whiteside on state of politics—Visit to Ryde—Lectures on the 'Irish difficulty'—Alteration proposed in oath taken by Papists on admission to Parliament—Mr. Monsell's motion—Opposed by Napier—The relief granted by measure of Sir George Grey—Napier to Mr. Disraeli upon the subject 242

CHAPTER VIII.

PASSED OVER.

Death of Lord Palmerston—Lord John Russell Prime Minister—His fall—Lord Derby again called to power—Intrigues to defeat the re-appointment of Napier—His deafness set up as an obstacle to office—Story of his appointment to Court of Appeal in letters to Mrs. Napier—Resignation forced upon him—Letter to Lord Derby—Vindication of Napier—Extract from *Solicitor's Journal* —Letters in the *Daily Express*—Letter from Sir John Coleridge on the subject—Appointment of Dr. Lloyd as Provost of Trinity College, Dublin—Napier created a Baronet—Canon Carus—Speech at National Club upon Irish Church—Opinion of Napier as to Commission inquiring into revenues of Irish Church—Motion of Mr. Fawcett against Protestant character of Trinity College, Dublin—Opposed by Napier—Papers descriptive of constitution of Trinity College—Napier Vice-Chancellor—Speech of Mr. Fawcett—Casting vote of the Speaker—The motion lost 291

CHAPTER IX.

RITUALISM.

PAGE

The Ritual Commission—Napier a member of it—Necessity of the Commission—Vagaries of the Ritualists—The Bishop of Peterborough upon their conduct—Constitution of the Commission—Views of Napier upon existence of English Church—Course in his opinion which the Commission ought to pursue—Part taken by Napier in the inquiry—Questions put by him to Mr. White, of St. Barnabas, Pimlico—To Mr. Webb, of St. Andrew's, Wells Street—To Mr. Nugee, of Wymering—And to Mr. Bennett, of Frome—Publication of the Reports of the Commission—Nature of their contents—The 'aggrieved parishioner'—Protests of the Commissioners—Protests of Napier in the Fourth Report—Resignation of Lord Derby—Mr. Disraeli Prime Minister—Appointment of Napier to Judicial Committee of Privy Council—Letter of thanks to Mr. Disraeli—Judgments of Napier in *Moore's Privy Council Cases* 328

CHAPTER X.

IRISH IDEAS.

The Irish Church—Views of Mr. Gladstone and Mr. Disraeli respecting it—Resignation of Mr. Disraeli—Accession to power of Mr. Gladstone—Disestablishment of the Irish Church—Partition of its revenues—Speech of Napier at Dublin upon this alienation of property—Result of the measure—Mr. Gladstone's Irish Land Bill—Mr. Disraeli to Napier upon it—Speech of Mr. Disraeli—Motion of Lord Hartington—Napier to Mr. Disraeli touching it—Motion opposed by Mr. Disraeli—Napier's Thesis 'The College and the University'—Case of Mr. Purser—Part played by Napier in the Irish Synod—Opposes alterations in the Prayer Book—Letter to Lord Harrowby upon the subject—Value of labours of Napier to Irish Church—Mr. Disraeli again Prime Minister—Irish Seal in commission—Napier Chief Commissioner—His arduous duties—Presides for last time in Court of Chancery—Illness of his eldest son—Remarks of Lord Chief Justice Whiteside—'Headless Court of Chancery'—Comment of Lord Justice Christian upon the remarks—Eulogium upon Napier 355

CHAPTER XI.

SORROW.

PAGE

Edmund Burke on the loss of his son—Death of William Napier—Grief of the parents—Future of Sir Joseph a blank—Letters of condolence—From Mr. Disraeli—Reply of Napier—Letter to Archbishop Trench—Sir Joseph to Lady Napier on their loss—Memoir of young Napier written by Sir Joseph for private circulation—Interest taken by William Napier in hospital work—Honorary Secretary to Mercer's Hospital—Connection with Hospital Sunday movement—Bequeathes 2,000*l.* to Mercer's Hospital—Appointed Secretary to Commission of the Great Seal—Appreciation of his labours—His illness—Tablet to his memory—Testimony of Master Brooke to his gifts and good qualities—Relations between father and son 382

CHAPTER XII.

FINIS.

Declining state of Napier's health—Abandonment of work—Severs his connection with Irish Synod—Testimony of Canon Jellett and the Rev. Mr. Wynne to Napier's work in the Synod—Acknowledgment of his labours by the Synod—Resolution passed by the Representative Body—Resigns post of Vice-Chancellor of Trinity College—Resolution passed by Board of Trinity College—Withdraws from the Church of Ireland Young Men's Christian Association—Resolution passed by that Association—Lord Spencer to Napier—Resigns seat on Judicial Committee of Privy Council—Seeks rest—Change of air—Settles at St. Leonard's—Dies there—Last moments described by Mrs. Gardiner—The funeral—Tablets to memory of Napier—Issue of his marriage—Death of his second son—Marriages of his daughters 398

APPENDIX 417

ILLUSTRATIONS.

PORTRAIT OF SIR JOSEPH NAPIER . . . . . *Frontispiece*

TABLET ERECTED TO THE MEMORY OF SIR JOSEPH NAPIER IN ST. PATRICK'S CATHEDRAL, DUBLIN . . *To face page* 416

LIFE

OF

SIR JOSEPH NAPIER.

CHAPTER I.

EARLY DAYS.

Every one is the son of his own works.—*Cervantes.*

LIVES of lawyers who have attained to eminence in their profession are always, from the special nature of their duties and from the peculiar combination of two distinct careers, framed more or less on the same lines. In the majority of cases we have the same early struggles to emerge from obscurity; the same success which follows upon opportunity grasped and made the most of; then an extensive practice; that curious union between the House of Commons and the bar so indispensable to the lawyer ambitious of the prizes of his profession; and finally the same successive occupancy of high office. The materials for such biographies are mainly to be found in the pleadings

of the advocate, the speeches of the legislator, and the judgments from the bench, and hence are necessarily of a somewhat limited interest and technical character. The eminently successful career of Sir Joseph Napier offers few exceptions to the nature of these remarks. He was first the sound and skilled advocate rising daily in his calling; afterwards the active and prominent politician; and then one of the most careful and weighty judges ever elevated to preside over the laws of his country.

In him there was a combination of gifts which at the very outset marked him for the bar, and destined him to exercise a distinct influence upon the fortunes of his nation. Endowed with a presence which was kindly yet dignified, with great powers of conversation developed by deep and judicious reading, and with that charm of manner characteristic of the better bred of his countrymen, his very appearance was an introduction in itself, and most favourably impressed all who came in contact with him. The face was singularly fine and full of intellect and refinement; the brow broad and lofty; the eyes well cut and keenly penetrating in their regard; the nose thin and shapely; the mouth well moulded, though somewhat too sensitive for a man; while in the expression of the face—especially later in life—there was that air of thought and deep attention which those whose

hearing is defective often reflect. Though no orator in the exact sense of the word, Sir Joseph Napier always had at command the resources of a polished and extensive vocabulary, which caused his speeches and judgments to be regarded, apart from their sound common sense and acuteness of penetration, as an intellectual study of no mean literary merit.

The bent of his genius was essentially judicial. He had all that lucidity of argument, that careful parade of precedents, and that unanswerable deduction from premises of the born lawyer; whilst his was one of those happily constituted minds which instinctively brushes aside all irrelevant matter and goes straight to the point, never permitting itself to be lost and wasted in side issues. It was these advantages which stood him in such good stead when appearing at the bar of the House of Lords, and caused his opinions when Attorney-General for Ireland—notably on the Irish land laws—to be of such value to the Government he advised. Nor was he one of those quick and ready men whose judgment is speedily arrived at, and then found to be erroneous; if his intellectual vision was swift, it was also far seeing, and he seldom came to a conclusion which it was necessary for him afterwards to abandon. As advocate he was a source of strength to the judge, and as judge he was second to none on the bench in rendering the law

clear and conclusive. Additional lustre was also shed upon these gifts by the pure and high-minded life led by the man. Party feeling and sectarian bitterness could wing their venomous shafts against him, yet both influences were powerless to detect, in the course of his long and prominent career, the slightest suspicion of conduct reflecting upon his character as a spotless man of honour, and, in the best and truest sense of the term, as gentleman. Judge, politician, and earnest Christian, the name of Sir Joseph Napier stands eminently forth from the long list of Irish celebrities, as one who from the purity of his patriotism, the utility of his public services, and the fidelity with which he served his God and country, fully merited the high opinion entertained of him by his contemporaries, and is ever deserving of being held in grateful remembrance by all who have the best interests of the Irish nation at heart.

Joseph Napier, the youngest son of William Napier of St. Andrews, a merchant of Belfast, and of Rosetta Macnaghten, of Ballyreagh House, co. Antrim, was a descendant of the Napiers of Merchistoun, a stock which has given to Great Britain some of her most distinguished sons, and was born December 26, 1804. At an early age he was fortunate enough to be placed under the tuition of James Sheridan Knowles, the dramatist, who was then a master in the

Belfast Academical Institution, at that time the leading public school on the other side of St. George's Channel, and where most of the eminent Irishmen of the earlier part of this century were educated. Good-tempered, full of fun, and blessed with great powers of mimicry, young Napier soon became a favourite in the school. His mercurial spirits and sense of humour made him as popular with the boys as his quickness and love of study enlisted the sympathies of his tutors. There are some men who at a very early age give signs of the fame they are afterwards to obtain. We are told that Smeaton when a child of six made a windmill; that Cardinal du Perron when only seven asked for a pen to write a book against the Huguenots; that West, when a boy, exclaimed, 'A painter is a companion for kings;' and that when mere lads, Hartley wished to write a book on the nature of man, Bacon a work on philosophy, Milton an epic poem, and De Thou a history. Joseph Napier belonged to this precocious order. Even when a schoolboy at Belfast his love of arguing, his faculty for seizing upon the prominent points of a case, and his fluency of speech, displayed his sympathies with a forensic career.

I myself (said Sheridan Knowles) dubbed him *counsellor* while yet he wore his frill. I fancied then that I read the Bar in his face, which in a state of perfect quietude indicated

a capacity for deep and sure research. But it was his heart that pleased me most. I never saw him sulk or keep anger or practise indirection, except indeed in making a show as if he was going to send the ball in the school alley with the force of a cannon-ball, and then wickedly dropping it like a feather an inch or two above the line; so winning the game like a rogue with a roguish laugh in your face. Barring this, in my eyes at the time, a heinous transgression—for I used to play with the boys—I saw in prospect a man of effortless unswerving integrity as well as of lofty solid dependable ability, which, thanks be to God, he has become.

Among my own old letters (writes Napier in 1867) which I value both from the living and the dead, I have several from my earliest and almost my latest schoolmaster, James Sheridan Knowles. They contain his genial congratulations on every step of my advancement (and he survived them all), and his joyous reminiscences of the time when he first dubbed me as 'the counsellor.'

Well grounded in the classics by Dr. O'Beirne, subsequently master of the Royal School of Enniskillen, and, as became a descendant of the inventor of logarithms, a mathematician of marked proficiency, thanks to the tuition of Dr. Thomson of Belfast, father of Professor Thomson of Cambridge, young Napier quitted Belfast, and was entered in the November of 1820 at Trinity College, Dublin, then under Dr. Singer, afterwards Bishop of Meath. Here he brought himself into notice by publishing, at the end of his first year, a demonstration of the Binomial Theorem—the

first of the many pamphlets which were afterwards to issue from his pen. Having passed through the university with distinction, taking honours in classics, he felt himself justified, on obtaining his degree in 1825, in aspiring after a fellowship, and accordingly began to read hard with that object. For a time he resided within the walls of Trinity College as a master, and occupied what leisure was at his disposal in writing for the press, contributing to certain of the more prominent magazines which were then circulating in Dublin. It was now also that he took a conspicuous part in the establishment of an oratorical society outside the walls of the College, somewhat resembling the Union at Oxford, at the meetings of which the chief topics of the day were discussed, and where many men, afterwards famous in the senate and at the Irish bar, began to test the force of their eloquence and practise their powers of debate. Napier was one of the leading spirits of this society, and, availing himself to the full of the advantages such a school of oratory offered, he soon acquired the ease, coolness, and flow of ideas which are the special characteristics of the practised speaker.

He was also successful in reviving the old Historical Society which had been established in 1770 for the cultivation of history, oratory, and composition. His connection with this society extended over the

long period of fifty-eight years. So active and prominent had been his interest in its deliberations, that in 1854, on the resignation of Dr. Macdonnell, the provost of Trinity College, Napier was unanimously elected by the members as their president. In this capacity he instituted at first an annual prize of books—designated the 'Napier Prose Composition Prize'—for the best essay on a subject selected and announced by himself some six months previously. Four years later, however, he substituted a gold medal for these books. The first student to win the medal was Mr. Edward Gibson, afterwards the brilliant member for the university of Dublin, and now Lord Ashbourne.

During the long period of twenty-nine years (writes a correspondent) in which Napier was president, unless prevented by illness or declining health, he never once failed to be at his post. Even the pressure of official or professional duties was never permitted to be an excuse. As Lord Chancellor, in the height of his busy practice at the bar, he found time to take the chair. . . . But it was not only on public occasions that his connection with the society as president was faithfully maintained. Sir Joseph Napier took a pleasure in promoting the welfare of the members individually. Not a few young men of promise owed their first successful start in life to help or influence he exerted on their behalf; members were made welcome when they visited him to consult about their own career as well as about the concerns of the Historical Society.

At the death of Sir Joseph Napier the post of President of the Historical Society was conferred upon the then Mr. Gibson, now, as we have said, Lord Ashbourne, Lord Chancellor of Ireland under the present Conservative Government. On taking his seat for the first time as president of the society, Mr. Gibson thus referred to the loss sustained by the club from the death of Napier :—

There are other words in addition to the expressions of gratitude that I should say in taking the chair to-night, and these are words about the eminent man whom it is my high honour to succeed. Sir Joseph Napier has been referred to in gracious and feeling words by the Auditor (the Rev. R. Walsh) in the introduction to his address, and in every word that he has used, and in every suggestion that he has made in reference to the late president, I most heartily concur (cheers). Sir Joseph Napier was, as we all know, distinguished in politics, in his profession, as member for this university, but he was also distinguished all through his life for the kindly encouragement he was ever ready to give to young men.[1] In all his dealings with this society he ever showed a most hearty sympathy with, was ever ready to give wise and useful counsel to, the young men of this society. He was ever anxious to give them the benefit of his great experience, great knowledge, and great ability, and I recall with gratitude that in my student days, when working here,

[1] In a letter addressed to me, Lord Ashbourne thus writes: 'He (Napier) was, whilst I was myself a working and active member of the society, always most kind and considerate to me—as he was always invariably to other young men. I think I have a kind letter of counsel from him when I was called to the bar.'

he extended to me this great advantage (cheers). Looking back at the long number of years that he was president of this society, I care not how men may have differed from him in opinion—how they may have criticised him in other aspects of his public life—no man can hesitate to recognise this, that Sir Joseph Napier ever desired earnestly and strongly to be a true friend of this great old College Historical Society (loud applause).

Among those indebted to the advice of Napier for the course which their future career assumed, two names stand prominently forward—the late Earl Cairns and the Rev. Mr. Teignmouth Shore, the present eloquent incumbent of Berkeley Chapel, Mayfair. It was through the counsels and suggestions of Napier that Mr. Hugh Cairns was induced to come to London and try his fortune at the English instead of the Irish bar. How the distinguished career of the late eminent Lord Chancellor justified this advice is within the memory of all. When Sir Joseph Napier, towards the close of his life, felt himself compelled to abandon his judicial duties on account of ill-health, Lord Cairns thus wrote (June 25, 1881) to Lady Napier:

It would, both in the present state of affairs and at all times, have been a great comfort to me to have profited by the mature wisdom and friendly counsels of your dear husband, had it pleased God to continue to him the health necessary for the exercise of the faculties for which he was so remarkable.

The happy memories of the past, and still more the bright prospect of the future, will, I have no doubt, be your support under all that is painful and depressing in the present, and this consolation I trust you may have in great reality.

On another occasion his lordship writes that he had ever received the most unvarying kindness from the subject of this biography, towards whom he had always 'entertained the deepest regard and respect, and looked upon as a brother.' In the early career of Mr. Teignmouth Shore, now chaplain to the Queen, and well known as one of the leading preachers of the day, Napier also took a deep interest. Often has this distinguished clergyman expressed the great help and advantage which he derived in his early days from the never-failing kindness and sympathetic encouragement extended towards him by Sir Joseph. 'I can never forget,' writes Mr. Shore in a letter lying before me, 'how wise and good a friend he was to me when friends were fewer and less influential than they are now.' Similar expressions of gratitude are also rendered by others now occupying distinguished positions in Church and State, who look back thankfully to the kind encouragement given them by the late Irish Chancellor, frankly acknowledging how much they have been indebted to the soundness of his advice in directing their future.

An opportunity was now to present itself for the young student to make use of the lessons in oratory that he had so well acquired. From the very beginning of his life, when reading and reflection had led him to arrive at opinions, Napier was warmly on the side of Tory principles, and of that form of Protestantism which found its best exponent in the creed and practice of the Evangelical party. From these two professions of faith he never wavered, and he remained to the end of his days a consistent yet enlightened Tory, and the most uncompromising of Protestants.

The Roman Catholic Emancipation Act had not yet been enrolled on the statute-book, and the dislike which Napier always evinced towards Rome and her teaching, led him in the earlier part of his career to rank himself as a disciple of the Eldon rather than of the Canning school of politics. Afterwards, when the Roman Catholic disabilities had been removed and the agitation on the subject had subsided, the Toryism of Napier, like that of most of the men who held his views, became less narrow and aggressive, and developed into the creed it afterwards assumed under Sir Robert Peel. It was the then burning question of Emancipation which created the high Toryism of Napier; hence, when the cause was removed, the fierce sentiments which had excited it

cooled down, and gave place to a tolerant and discriminating Conservatism.

Still, until the repeal of the Roman Catholic disabilities was carried, no one was a hotter opponent of Emancipation than the future Irish Chancellor. He held—and his birth in the north of Ireland made his convictions the stronger—the old-fashioned opinions of the extreme Tory of his day upon the subject. In his eyes it was not impossible, but improbable, from the nature of his religion and the spiritual fealty he had to acknowledge, that a Roman Catholic could be a sincere patriot and a true subject of his sovereign. He objected to the admission into the councils of the empire of one who when the interests of his creed clashed with the interests of his country would prove himself more of an Italian than of an inhabitant of the United Kingdom. In his opinion the Roman Catholics had nothing to complain of. They were not persecuted as in former times; they were not forced to flee the country; they were allowed to build convents and monasteries and to celebrate the rites of their Church without interference. It was true that they did not enjoy the political liberty of their countrymen; their nobles did not sit in the House of Peers; their squires did not sit in the House of Commons; their sons could not be educated at the two great universities of England; but that they

laboured under these disadvantages they had only themselves to blame. History had proved that Popery was the enemy of a Protestant Government and a Protestant Church, and as the supremest law was to provide for the safety of the commonwealth, it was both right and expedient that such an enemy should have its power curtailed and its activity restrained.

And yet, strange as it may appear in these days of Ritualism, though Napier was a Protestant—and among the members of the National Club he was the staunchest of the staunch—he was a true son of the Church of England, and had little in common with the jealousy and differences of dissent. He was of opinion that the creed of the Church of England, then also the creed of the State Church of Ireland, held the balance between two extremes. He looked upon it as professing a faith and rule exactly suited to our national tastes and habits, since its creed was Protestant, its clergy gentlemen, and its discipline orderly without mummery. Being, therefore, under the influence of these opinions, he consistently opposed at the beginning of his career the emancipation of the Roman Catholics, and to his dying day no one more than he combated the sacerdotal pretensions of the extreme High Church party. In common with Lord Eldon, who was then the

spokesman of the anti-Catholics, he maintained that the British constitution was 'not based upon the principles of equal rights to all men indiscriminately, but of equal rights of all men conforming to and complying with the tests which that constitution required for its security.'

An opportunity was now presented for Napier to give expression to these views, and to come forward as a champion of Protestantism. The agitation consequent upon the efforts of the Liberals, supported by the wit and fire of Canning, to remove the disabilities of the Papists, had been wafted across St. George's Channel, and was, as we can imagine, not permitted to die out for want of fuel among a people where Protestantism was in a minority, and where the Roman Catholics constituted an active and aggressive majority. Accordingly the Irish Protestant party saw that the moment had now arrived for them to unite against the enemy, and make every effort to preserve the integrity of the constitution, which was then thought to be seriously imperilled by the meditated admission of Roman Catholics into Parliament. The year 1828 was one of vehement and incessant opposition to the movement throughout Ireland. Meetings were held, pamphlets published, and Protestant clubs—among them the Brunswick Constitutional Club—started throughout the country, especially

in the north, all with the one object of denouncing the Roman Catholics, upholding the articles of the Union, and proving how beneficial had been in the past the Protestantism of England to the welfare of Ireland. Napier took a prominent part in these proceedings, notably at a certain meeting, held at Morrisson's Great Rooms, of the graduates of his university; and the speeches he delivered on the occasion, from their cogency of argument and the deep reading they displayed, raised him at once to notice, and gave sure promise of the distinction he was afterwards to command.

The success he now achieved turned his thoughts into a new channel, and confirmed him all the more in a resolve that he had for the last few months been meditating upon. Somewhat imprudently, considering his future was not yet assured, he had married Miss Grace, the daughter of Mr. John Grace of Dublin—a descendant of the ancient family of the Graces of Courtstown, Kilkenny, whose estates had been forfeited by William III. for their Jacobite sympathies—a union which was in every respect a happy one, and exercised the most beneficial influence upon his life, both social and political. All idea of a fellowship had now to be abandoned, for as with the sister Colleges at Oxford and Cambridge, so then at Trinity College, Dublin, matrimony

was an insurmountable obstacle to any such aspiration.[1] It was now absolutely necessary for Napier to choose a profession, and conscious of the nature and strength of his talents, in a happy moment he determined upon being called to the bar, deciding then in favour of the English bar.

Going up to London he entered himself at Gray's Inn[2] and became a pupil at the Law School of the London University, then recently founded, attending the lectures of Mr. Amos, afterwards the well-known writer upon the English Constitution, who was at that time Professor of Common Law in the London University. At the expiration of a few months the young student passed into the chambers of Mr., subsequently Justice Patteson, then the leading practitioner in common law, and to whose guidance and tuition Napier in after life always expressed himself as most deeply indebted. Upon the promotion of Mr. Patteson to the bench in 1830, the subject of this biography, who had specially studied the science of pleading under his late master, began to practise as a

[1] It was not until 1840 that Fellows of Trinity College were allowed to marry.

[2] From the late Sir Wm. Wheelhouse, Treasurer of Gray's Inn, I learn that he kept the following terms:

4	terms in	1828,	Hil.,	East., Trin., Mich.
4	„	1829	„	„
2	„	1830	„	„

pleader in London, and we are told that during his first and only term there, his success was so marked as to give him every prospect of a prosperous and distinguished career at the English bar. Yet, in spite of the encouragement he had received, Napier at this very time resolved to exchange London for Dublin, and the English for the Irish bar. It was true that a busy and lucrative career seemed before him in England, but in the opinion of his friends the country of his birth offered him advantages which he could not obtain elsewhere. It is idle to speculate upon what might have been the future of Napier had he continued to devote himself to the English bar, but there is no exaggeration in saying that his career in this country would have been a very distinguished one, and that, though the great prize of his profession might not have fallen into his hands, he would at least have been rewarded with one of the higher appointments on the bench. However, in after life he never regretted the course he was advised to adopt on this occasion; for Ireland, the land of his birth and the home of his friends, afterwards became all in all to him, and offered him charms and companionship which might have been denied him in England. He was called to the Irish bar in the Easter term of 1831, and attached himself to the north-eastern circuit.

Dublin now followed the precedent of London, and Napier, without any of the struggles and delays of the men who afterwards attained eminence in their profession—men like Pratt, Thurlow, Eldon, Romilly, Lyndhurst, and others—at once commanded an extensive practice. Before five years had passed over his head he was looked upon both by advocate and attorney as the most rising of juniors. He was also the only barrister in Dublin who had pupils reading with him in chambers.

Called to the bar in 1831 (writes a distinguished Irish judge),[1] Napier devoted himself assiduously to the duties of a junior barrister, and having come from London with the reputation of a skilled common law pleader, he soon became known as one for whose industry and learning clients could look with confidence. Shortly after his appearance at the Irish bar he published a Manual of precedents of forms of declarations on bills of exchange and promissory notes, in the compilation of which he stated his indebtedness to Mr. Justice Patteson. This work, trifling as it was, introduced him to what was then a source of considerable income to the junior bar, and he rapidly became employed in all cases that involved questions of common law pleading. His arguments on demurrers, which in those days were very frequent, were considered masterpieces of legal acumen, and the accuracy and point with which he marshalled his facts and legal inferences cannot readily be forgotten by any of his contemporaries. Succeeding to this publication was a treatise on the

[1] MS. notes by Mr. Justice Harrison.

Practice of the Civil Bill Courts and Courts of Appeal, and this subject involving a great deal of the junior business of a circuit barrister, necessarily aided Mr. Napier in his increasing circuit business. In addition to other labours he became editor of law reports known as Albeck and Napier's Reports of Cases argued in the King's Bench in 1832–34, and such was the reputation of the editors, that for many years this volume of reports was the only Irish authority ever referred to in England in the courts of justice.

Though Napier was now leading the life of the hard-worked and prosperous advocate, his time and energies were not exclusively occupied with professional duties. He took a deep interest in educational matters; he delivered several lectures on the common law which attracted much attention both in Dublin and London; and above all he was busy in establishing a law institute, with the object of improving the system of legal training for law students. Many of the improvements then suggested have since been adopted. A case now occurred which was to bring him prominently before the public, and lay the foundation of all his future greatness. This was the remarkable criminal trial of The Queen *versus* Samuel Gray, held at Monaghan during the Lent assizes of 1843. It was as follows: The prisoner Gray was indicted for firing a pistol at one James Cunningham, with intent to do him bodily harm. Such an offence was then, by an Act passed in the first year of her

present Majesty, declared to be a felony. When the trial came on for hearing, Napier, who was the prisoner's counsel, peremptorily challenged one of the jurors as he was about to be sworn. The objection, however, was not permitted by the bench, since it had been decided by the Irish judges that the right of challenging a juryman existed only in cases of *capital* felony; consequently the case was proceeded with, when a verdict of guilty was returned against the prisoner.

In the opinion of Napier this verdict was void because the jury were illegally constituted, and he at once moved the Court of Queen's Bench in arrest of judgment. Upon the case being argued before the full court, three judges decided against Napier, and but one—Mr. Justice Perrin—supported him; hence the judgment of the court below was confirmed. Still, in spite of two adverse decisions, the counsel for Gray declined to be satisfied and to admit that his view of the matter was erroneous. He maintained that in *all* cases of felony, whether capital or no, the right to challenge a juryman existed. By his advice, therefore, a writ of error was sued out to the House of Lords, and, to the delight of the combative advocate, the highest court of appeal in the country was unanimous in upholding his opinion. His argument received the flattering approval of the law

lords; Baron Parke characterised it as 'an able argument'; and it was visible to all that a new and brilliant star had appeared in the forensic firmament.

The argument of Mr. Napier in this case (writes Mr. Justice Harrison) is of a most exhaustive character, and is to be found in the ninth volume of Clarke and Finnelly's Reports, the result being in accordance with Mr. Napier's argument holding that a peremptory challenge of jurors exists in all cases of felony, whether capital or not.

It was afterwards said that Napier had at his own expense carried the case on a point of law to the House of Lords, to secure the acquittal of Gray because the prisoner was an Orangeman. The statement was made during the examination of a witness before a Select Committee on Outrages in Ireland by one of the members of the committee. Napier, who was chairman of the committee, was subsequently examined, and he thus disposed of the charge brought against him.[1]

On the third trial coming on (he said), Gray made an application to the court; and it was stated the expense of these proceedings had ruined him, and he begged that counsel and attorney might be assigned by the court to defend him. That is usual when a party is unable to pay; and the ordinary

[1] *Dublin University Magazine*, March 1853.

and usual course has been for the Crown to pay the reasonable expenses of the defence. The judge (and I think it was Judge Crampton who tried him on that occasion) assigned myself and Mr. Whiteside as his counsel; and a counsel has no right to refuse when he is assigned by the judge. If a barrister is assigned to defend a prisoner, he is bound by his position to do it. Accordingly on that occasion we appeared to defend Gray, and on that occasion the jury disagreed. Then the Crown removed the case from the criminal side of the court, and took it to the *nisi prius* side; it came down a fourth time for trial; and on that occasion we were again assigned by Mr. Justice Perrin to defend Gray. I raised the question, which had been a very moot question in Ireland, of the right of peremptory challenge by a prisoner, in a case of felony not capital; for he was not tried on that occasion for a capital felony, but a transportable felony. That question was raised, and was put on the record; it came up to Dublin, and it was argued before the Court of Queen's Bench by myself and Mr. Whiteside. . . . The judges differed in opinion, Mr. Justice Perrin differing from the rest of the court, and we considered that his law was right, and the House of Lords thought so. The Crown then refused to pay any fees, and for performing our duty we were not allowed one farthing of fees, and they were ultimately refused by the Crown. My position was this, that there being an important point of law, involving the right to challenge, which would arise upon every trial in a case of transportable felony, having the opinion of one learned judge with me, and being counsel for the man, and the fees being refused by the Crown, I thought it was an attempt to oppress him; and I certainly did say, that if the case went further, I would not seek for any compensation or remuneration for arguing the case. Accordingly the officers, both in Ireland and England, remitted their fees under the circumstances, on

bringing the appeal; I came over here; I never got one farthing; I did not pay any money out of my own pocket, except travelling expenses, in coming over; but it so happened that at the same time I was coming over in the case of Mr. O'Connell, who had also a point before the House of Lords; and both the cases were argued in the same week. I argued the case before the House of Lords; but I was never paid one farthing in any way. I did my duty as counsel, having been assigned, and got nothing for it. The House of Lords decided that on the point of law the counsel for Gray were right, and awarded a *venire de novo*, which would have enabled the Crown, if they had thought proper, to proceed again; but they thought they had gone far enough, and dropped the proceeding.

Whilst this disputed point was under discussion, another incident occurred which showed how highly the professional services of Joseph Napier were now being appreciated. He was already engaged in one case of a writ of error, he was to be engaged in a second. The trial of O'Connell and others for seditious conspiracy arising out of the Clontarf meeting of 1843 had taken place, and the result was the conviction of the traversers; as in the case of Gray, a writ of error was also sued out to the House of Lords on their behalf. And now there followed a curious struggle. Both parties engaged in the case—the Crown solicitor and the attorney for the traversers—were so desirous of retaining Napier, that it became a race between them who should first secure his

services. The respective briefs, with their respective large fees, were despatched to his house on the same day, but it so happened that the coveted counsel was away from his home at the time. The briefs were forwarded, but by two different posts, and the retainer of the Crown arriving first, was accepted, much to the disappointment of O'Connell, who, as a keen judge of men, was very desirous of being defended by Napier.

Upon his return to Ireland after the performance of these duties at the bar of the House of Lords, Napier received a silk gown from Sir Edward Sugden, then Lord Chancellor of Ireland. The taking of silk is always a critical time in the life of counsel. Men who as juniors have been in the receipt of a large practice, and are excellent in every capacity when well led, have often found, to their bitter chagrin, that when they themselves have developed into leaders, their business falls away, and the visits of solicitors become alarmingly less frequent. The gifts which stood them in such good stead when they wore the humbler stuff gown are no longer needed, whilst those which are now indispensable—experience in convincing judges or humouring juries, more finished powers of argument, a closer grasp of the subtleties of cross-examination, and a deeper and more accurate knowledge of the law—often make themselves so con-

spicuous by their absence, that to many barristers the promotion has ushered in a state of things bordering on ruin. With Napier this was not the case. From the very day of his admission within the bar, brief after brief continued to cover his table and rejoice the heart of his clerk, until there was scarcely a trial of note in which he was not retained for one side or the other.

From this period (writes Mr. Justice Harrison) till his removal from the active duties of his profession by legal and judicial promotion, Mr. Napier was almost uniformly retained in all leading Irish cases in the House of Lords.

One of the most important suits entrusted to his hands at this time was that of Lord Dungannon *v.* Smith.

The case was one of considerable interest, as well to the legal profession upon the point of law involved, as it was to the noble appellant by reason of the amount of property which depended upon the decision.

Mr. Napier argued the demurrer, on behalf of Lord Dungannon, before Sir Michael O'Loughlen; and Sir Edward Sugden having, *pro formâ*, affirmed the decision, Lord Dungannon appealed to the House of Lords, and brought Mr. Napier specially to argue the question. It was in truth an up-hill work. A recent decision of the Vice-Chancellor of England, affirmed upon appeal by Lord Cottenham—we allude to the case of Ibbetson *v.* Ibbetson—was a strong authority against Lord Dungannon, and, indeed, formed the basis of

the judgment of the Court of Chancery in Ireland; besides, the opinions taken in England by the noble appellant were generally unfavourable and all discouraging. Still, however, Lord Dungannon determined upon having the highest judicial decision upon a point in which he thought common sense was, at all events, in his favour. Upon Mr. Napier, who, as he himself observed, had served an apprenticeship to the case, he relied with the utmost confidence that no resource which learning or assiduity could supply would be unexplored. And in this he was not deceived. The appeal was opened by the late Mr. Hodgson, of the English bar, on behalf of Lord Dungannon; Lord Lyndhurst, as Chancellor, presided, assisted by Lord Cottenham, the previous Chancellor, Lord Brougham, Lord Campbell, and thirteen of the law judges. His statement of the case was long and elaborate; but he made so little impression on the House, that at the conclusion the counsel for the respondent did not expect to be called on for any argument in reply.

Mr. Napier then followed on the same side with Mr. Hodgson. His speech was one of remarkable ability and learning. With great skill he applied himself to the case; he arrested the attention of the court by the masterly review of all the cases; and ere he concluded his argument for the first day, which occupied about an hour, it was evident that the enemy's flank was turned, and that some of the court, if not thoroughly convinced already, wavered in their opinions. Upon the following day he resumed his argument, and spoke for three hours, with an ability which commanded the entire attention of his auditory, and in its progress elicited more than once the marked approval of several of the noble lords. At the close of his argument, as Mr. Napier was gathering up his papers, Lord Lyndhurst remarked to Mr. Hodgson that the House and the judges begged to

express their admiration of the able argument which they had heard, and requested that Mr. Napier should be informed of this their opinion—Lord Brougham adding, 'a most remarkably able argument.' The result was, that the respondent's counsel were called upon to speak, and, instead of the easy victory which they had anticipated, they found themselves obliged to apply all their energies and learning to answer the arguments of Mr. Napier. The respondents having closed, it remained for Lord Dungannon's counsel to reply, and, at the special request of the noble appellant, and with the ready and unconditional assent of Mr. Hodgson, the general reply was confided to Mr. Napier. Accordingly, upon the 24th of June, 1845, Mr. Napier replied; he answered the arguments of his learned opponents with great force and ingenuity, and it is, perhaps, one of the ablest and the most erudite specimens of forensic eloquence upon record. Such was its effect, that it completely won over two eminent judges, Baron Parke and Justice Patteson, who considered it conclusive; though, unfortunately, the current of authority, and especially the case of Ibbetson *v.* Ibbetson, were too strong against him to give a majority in his favour. At the conclusion of the speech, the Lord Chancellor informed Mr. Napier that it was the opinion of all the noble and learned lords present, that the case was extremely well argued by the learned counsel; and both Lords Campbell and Brougham, as well as Baron Parke and Justice Patteson, in the course of their judgments, pronounced the argument of Mr. Napier to be a very able one.

The decision of the House was, however, adverse to Lord Dungannon; but his able advocate had the consolation of receiving high eulogy from those whose opinions were of the greatest value. In a letter from Lord Dungannon, who

expressed his entire satisfaction and gratitude for the manner in which his case had been conducted, that nobleman writes: 'Mr. T. told me that Baron Parke had stated to him on the circuit, that the argument was the most able and masterly he had ever listened to; and such, he added, was the opinion of Lord Lyndhurst.' 'I certainly never read,' observes an eminent individual, 'a more able and intellectual appeal, showing great talent and acuteness, with a perfect knowledge of his subject; and his arguments are powerfully backed by cases which must have occupied immense labour and industry to have collected together; moreover, his language is really classically beautiful.' But, perhaps, the eulogy most grateful to his heart was that bestowed upon him by one whose judgment, sound, discriminating, and severe, is looked up to by all who know him, and whose experience and habitual sobriety of mind make him chary of praise. Mr. Holmes, the honoured veteran and ornament of the Irish bar, the leader of his own circuit, and the father of the profession, after having read the argument wrote to Mr. Napier in the following terms: 'I have received from the perusal of it great pleasure, and much information. I consider the argument not only a most able one as applied to the particular case, but also a very clear, satisfactory, and useful exposition of the principles which should govern courts in the construction of wills, and indeed in their decisions generally.'

Though the decision in this case was adverse to Lord Dungannon, the argument of his Irish counsel placed that gentleman in a very high position in the estimation of English jurists, and has led to his being engaged in several appeals before the House of Lords; and he has invariably experienced the most marked consideration from Lords Campbell and

Brougham, as well as from Lord Lyndhurst, and the English judges.[1]

A conspicuous and successful counsel, in the pursuit of an ever increasing practice, it was only natural that Napier should now direct his attention to that consummation so devoutly to be wished by the ambitious and prosperous advocate—a political career. A vacancy occurring in the representation of his university in 1847, he was brought forward as a candidate, and appealed to the suffrages of the constituency on the grounds of his being a staunch Protestant, a sound Conservative, and a true son of Trinity College. His first efforts to embrace political life were not successful, but a few months after his defeat, the seat, owing to the resignation of Mr. Shaw, the Recorder of Dublin, his former rival, became again vacant, and this time Napier was returned without a struggle.

In acknowledging the honour thus conferred upon him, Napier said:

Not many months have elapsed since I was caught in the swell of agitated waters; the reflux of the wave has left me high upon the land. I am almost overcome by a feeling of profound gratitude to you for thus raising me, without a dissentient voice, to this truly honourable and elevated position. My principles, gentlemen, were nurtured within these walls: it was here I was taught to revere and love the insti-

[1] *Dublin University Magazine*, March 1853.

tutions which honour learning and religion: these principles I have never abandoned: you will find them in a candid average of my course in life—a fairer test than any isolated act or incautious expression in a season of sudden excitement.

Then, after alluding in graceful terms to his predecessor, Napier thus continued:

In gratefully acknowledging the generous support I have obtained from the various sections of this great constituency, [the constituency may be divided into four classes—the Church, the Bar, the Medical profession, and the educated gentry,] I naturally first address myself to those resident within the walls. The candour, the kindness, the good feeling exhibited towards me in the intercourse I have had with the fellows and scholars, have produced on my mind impressions which, I trust, are permanent as they are pleasing. I rejoice to find amongst you a spirit of wise and rational progress; and whilst in every department of science and philosophy a new vigour prevails—yet the spirit of Ussher is still the genius of this university, the early child of the Reformation. With the approving confidence of so large a majority within the College, I cannot distrust myself in reference to the interests of our admirable university. I now turn to my own profession: I cannot adequately tell them how grateful has been to me their generous support. They will bear me witness how happily I have lived and laboured amongst them; and that I have uniformly trod the plain path of straightforward industry. Our intercourse has been kindly and unreserved; neither interrupted by jealousy nor disturbed by prejudice; and if you are sometimes taught the corrupting lesson that professional promotion is not the prize of industry and virtue, let me now announce from this elevation on which you have gener-

ously placed me, that the path of honesty is the noblest path of honour. The other branch of the legal profession has supported me in a manner that is as honourable to their feelings as it is gratifying to mine. So I may add of that intelligent and valuable profession, the medical body, whose rights I shall guard with cordial diligence.

"But I have reserved for the last, the friends I love the best, the faithful ministers of our Church, to whom I am bound by every bond of gratitude, sympathy, and affection. Your solicitude for my success, your heart-stirring approval of my claims, aroused me from the repose of private life to accept this post of arduous duty. I have watched with sorrow of heart the wasting policy which, by slow degrees, consumes your substance; with more than sorrow have I observed the corrupting policy which seeks to sap your fidelity. About the time when I left the university, the Emancipation Act, which I was untruly charged with intending to assail, became the law of the land. It was a great compact which professed, on one part, to give increased security to the property and position of our Church; and we were told that hostility would be hallowed into mere competition: this was solemnised by a form of oath embodying the assurance. The war against Church property soon commenced with earnest vigour: it was followed by an attack on scriptural education: next came the extinction of the bishoprics and the taxation of benefices: then the transfer of a fourth of the reduced income of incumbents: and the unjust, oppressive, and ruinous rating of the tithe-rent charge under the provisions of the poor-law act. This was, indeed, repealing in part the Act of emancipation: raising the unshackled arm to strike down the deliverer.

Still our Church was steadfast and faithful to its great commission. Destroy its fidelity and its ruin is secured.

Encourage subserviency, induce compromise, subvert principle, promote the time-server; seduce, under promise of marriage, and despise the victim thus demoralised and destroyed. I might ask you, as honest and honourable men, could you really desire a union to be erected on this hollow basis of compromise and corruption? I know you would not—and if you did, I ought not to be your representative. Enlightened toleration I uphold; in renouncing that, the genius and spirit of true Protestantism would be discarded. I would seek for every legitimate object of public usefulness which reasonable men could promote, without clashing of conscientious principles; but, gentlemen, your representative should never tamper with the principle which is the foundation-stone of this venerable university. Believe me, I feel the solemn responsibility of the trust which is now confided to me on this interesting occasion. But with the opportunity of constant intercourse and conference with the learned and wise and good men of the constituency, and in the simple but sincere desire to be useful without ostentation, I feel of good cheer—I am not discouraged. We have arrived at a great crisis in the destiny of Ireland. Oh! that a spirit of sober-mindedness, industry, and self-reliance, would take deep root in our country, and individual effort and example become the seed of general improvement! Acting on the requirements of sacred Truth, and steadily proceeding under its guiding light, we might apply the language of our sweet melodist—

> Then, soon the prospect clearing,
> By cloudless starlight on he treads,
> And finds no light so cheering
> As the light which Heaven sheds.

The 'wild justice of revenge' would not then let loose upon the land the spirit of demons, but 'preventing justice,' as Sir Edward Coke designates it, would secure true blessings for

our country. His quaint but expressive language describes it as consisting in three things: first, the good instruction of youth in the grounds of the true religion and the knowledge of some trade, to prevent idleness; second, in the execution of good laws; and third, in rarely granting pardons. 'The consideration of this preventing justice,' he says, 'were worthy of the wisdom of a parliament, and in the meantime expert and wise men to make preparation for the same; as the text saith, "Ut beneficat eis Dominus." Blessed shall he be that layeth the first stone of this building; more blessed he that proceeds in it; most of all that finisheth it to the glory of God and the honour of our Queen and nation.' I have addressed you, gentlemen, designedly in much simplicity, for I am pressed by emotions too powerful, too weighty for elaborate expression. I can add no more than again to thank you in the fulness of my heart—and once more to assure you that my humble exertions shall always be devoted, with anxious diligence, to the good of the Church, the honour of the university, and the welfare of my native country.

How fully this pledge was carried out is plain to all who interest themselves in the political career of the subject of this biography.

I was on Mr. Napier's committee (writes Dr. Salmon, the Regius Professor of Divinity at Trinity College, Dublin) when he became a candidate for the representation of the university. The former representatives were excellent men, but they had in our eyes the fatal defect of not being graduates of the university. Though defeated in the first contest, we were victorious a few months later, and ever since we have been represented by graduates of our own. It was a great satisfaction to us that our representative so soon justified our confidence in him by the influence he acquired in the House of Commons.

The entrance of Napier into the House of Commons was at an eventful period in the fortunes of the Conservative party. The Corn Laws had been repealed, and the embittered Protectionists were still sore at the 'treachery' of their late leader, holding themselves indignantly aloof from himself and his following. Lord John Russell was Prime Minister, and, with the exception of Lord Palmerston, his Cabinet was weak both in administrative capacity and debating power. Had it not been for the support accorded to the Government by Sir Robert Peel, ministers would have failed in defeating the tactics of the opposition. Three great parties then existed in the House of Commons. The Whigs, who were in power; those Conservatives who still adhered to the fallen fortunes of Sir Robert Peel; and the Protectionists under the nominal leadership of Lord George Bentinck. Thus on any measure brought up for discussion a fusion between the Peelites and the Protectionists would place ministers in a minority. Sir Robert Peel, however, had no intention of bridging over the existing breach, for he knew that if the Conservatives came into office he could not hope to be reinstated as head of the Cabinet. He resolved, therefore, to support the policy of Lord John Russell.

Though sitting on the opposition benches, Napier declined at first to identify himself either with Peelites

or Protectionists. He did not wish, he said, in his speech opposing the extension of the income tax to Ireland (March 17, 1848), to attach himself to any party, but to vote according to his conscience instead of in obedience to the directions of any given leader. 'When I entered the House of Commons,' he said, 'I was determined that every vote I gave should be without any reference to party questions, but should be given purely on conscientious principles.' Still, a perusal of his speeches in what Mr. Disraeli called the 'Dunciad of politics'—'Hansard'—during the session of 1848 plainly shows that Napier's sympathies were fully in favour of the policy of Conservatism, and that his suggestions and objections were in complete accordance with its teaching. His maiden effort was delivered upon the well-worn topic of capital punishment, which, contrary to the opinion of the sentimentalists, he was in favour of retaining.

He had had (he said, March 14, 1848) considerable experience in civil and criminal justice, and could therefore offer one or two observations which might throw light upon the question. There was one point on which all were agreed, and which was taken as the basis of the argument on both sides—the principle of the sacredness of human life. Any one who had witnessed the administration of the criminal law in this country, could not but see in every department of criminal justice the most striking evidence of that tenderness for human life, that extreme caution, that almost divine carefulness, that

not the hair of a man's head should be injured unless upon the clearest proof of his guilt. The question had been argued by certain members on the ground that Government had no power to execute capital punishments. If that were so, there was an end of the question: yet how had that end been maintained? It was said that human tribunals were fallible, and might make mistakes. But, if that were so, the same argument would prevent human tribunals from dealing with liberty and property, or indeed with all the concerns of life. For his own part, he thought that the power of society to take away life rested upon the Divine precept, or upon the parallel principle, that all human society was of Divine appointment. But, admitting that, there was still the important question remaining—and it was a very important question—under what circumstances might human life be taken away? His own tendency had ever been to reduce the power of taking away life to the utmost possible limit. Without pretending to have any stereotyped opinions on the subject, he had come to the conclusion that murder was the only crime for which human life should be taken away. It had been raised as an argument against the punishment of death in any case, that the fear of inflicting such punishment deterred juries from finding a verdict of guilty; yet he thought that argument only went to show that that was the highest sentence known to the law, that it ought not to be lightly inflicted; and as for himself, he was satisfied that in no case ought the punishment to be inflicted unless the evidence was such as to leave the case free from all doubt. He remembered being engaged in an argument one morning with some of his brethren at the bar, when he maintained, perhaps somewhat rashly, that an innocent man was never convicted. That very day he was called upon to defend a man for the crime of murder, but which the prosecutor put as a case of man-

slaughter; and in that instance the innocent man was convicted, while the guilty escaped. At the same time, as he had said before, if simple error was to be allowed as an argument against punishment, there would be an end to human tribunals. It was his intention to oppose the motion.

His advocacy was on the winning side, for the suggestion was rejected by a large majority.

A special acquaintance with a special subject is always appreciated by the House of Commons, and on the next occasion when Napier addressed the assembly he was listened to with the attention which information when united with sound deductions always commands. His remarks are as applicable now as they were then. It was upon the old old story of the wrongs of Ireland—wrongs which the agitator taught were the result of landlord avarice and oppression, and which common sense saw was but the result of peasant laziness, improvidence, and superstition. The outgoing Tenants (Ireland) Bill was being discussed (April 5, 1848), and led to much comment upon the state of the Irish land laws. No one was better calculated to speak with authority on this question, from his practical and professional knowledge of the subject as an Irishman and a lawyer, than Napier. He proved, by a comparison between the condition of Ulster and that of the southern and disaffected districts of Ireland, that the misery of the tenant was

not due to the land laws or the greed of his landlord, but to the indolence and fondness for sedition of the peasant. Let the peasant, he said, work as his brother in Ulster—be as sober, God-fearing, and proof against the tricks of the agitation-monger—and he would soon find that the same prosperity would attend upon his labours, and no more be heard of the sorrows and special griefs of the Irish peasantry.

If thus you have (he said) in one province the yeoman class combined in support of law and order—attached to British institutions—educated in the principles which have made England great and prosperous; but in other parts of Ireland the tenant-class conspiring against the law—stimulated to malignant hatred of everything English simply because it is English—and every reasonable effort at improving their condition frustrated by the energies of unprincipled advisers, who hate and fear the power of true constitutional liberty; in the one place religion appealing to the understandings and affections of the people,—in the other, to their passions and their senses—can you hope to equalise by human law differences occasioned by Divine legislation; or shall the former prevail where the latter is repudiated? It cannot be; another remedy must be sought and applied. While I admit the moral inequality, I would to some extent desire to be the apologist of many of my degraded countrymen. Remember their wretched state of social and physical depression; and, above all, reflect on the training they habitually undergo. How can legislation correct this? It cannot make men virtuous; and yet to be happy they must be good, and to be good, religious truth must warm their

hearts. You cannot transplant by statute the moral culture of one province to fix it in another; nor can that which is indigenous to a moral soil flourish in an atmosphere of disaffection and crime; and you might as well hope to transplant the luxuriant exotic to some bleak and barren mountain, and create fertility by exposing it to perish. In your agricultural improvements you begin by subsoiling, draining, and then manuring: noxious weeds have been removed and cold and chilling influences abstracted, and then by patient waiting productiveness is secured. Such must be the analogous process to produce in other parts of Ireland the prosperity of Ulster.

Here, then, is the secret as to the miseries of Ireland; you discover it by a candid comparison of the condition of her prosperous province and her degraded districts. The swell of agitation is thrown back from Ulster. British connection is valued, not denounced; its privileges made available, not counteracted—kindly feeling between landlord and tenant prevails—religious liberty is honoured, and truth diffuses its own peculiar blessings. You look away from this prosperous spot: you see suspicion displacing confidence—hatred of England inculcated and cherished as a religious dogma—the bad passions aroused and inflamed—the charities of human hearts curdled and corrupted—those relations dissevered which are the offspring of dependence and protection; here are the immediate causes of the depression which is acknowledged; you must renovate the soil before you can improve the products. So long as those who influence and stimulate the mind of the people stoop to an ignominious popularity, to trade upon their distress or disaffection, the efforts of the wise and good are baffled and impeded. This is the evil which must be met, and honestly and boldly grappled with. Your legislation is all romance until this previous question

be decided. The constitution of England, that noblest edifice ever reared on earth, which stands amidst the storm which rocks all Europe to its centre[1]—that which gives to England a name and a place on which Heaven shines serenely—it must by its own steady powers infuse its own principles by gentle processes into the habits of the people of Ireland; trusting to the energy and wisdom of its laws, and the power of its own executive; not suffering any irresponsible body of men to assume the right or the power of dictating terms of government; but with conscious strength and dignity imparting the light and warmth of freedom to shine on all with steady impartiality, and thus quicken into life the attachment and respect of the people.

During the debate, several of the Irish members did not fail to repeat the stale accusation that the House had scant sympathy with Irish grievances. Napier met the charge with one of those home truths none knew better than he how to deliver.

If it be so (he cried) it is the fault of Irish members. Where is the measure that has been brought forward in a practicable shape that has been capriciously rejected? When have facts, dispassionately stated and accurately ascertained, been treated with disdain? I must say, in justice to the English members, that in the limited opportunity I have had of observation, I see no indisposition to entertain the discussion of Irish questions, except so far as the manner in which they are introduced may have occasioned that indisposition. If men are content to indulge in vulgar clamour and general

[1] The year 1848 saw almost the entire continent of Europe convulsed by revolution.

abuse, or, when they are precise in detail, if they are usually inaccurate in their facts and figures—if thus they nauseate Englishmen, without instructing them, on local matters—in common fairness, let themselves bear the blame of the natural result; and let those who send them as their representatives reap the fruit of their selection.

This speech of Napier's was singularly telling in its effect, and even those whose views it combated were compelled to acknowledge how much of truth there was in its strictures and criticisms.

To the efforts of Lord John Russell in the cause of Jewish emancipation we find Napier, like the rest of those who sat on his side of the House, posing as a strenuous opponent. He feared, as most of his party then feared, that the removal of Jewish disabilities would put in jeopardy the Christian character of our legislation.

The question involves (he said, May 4, 1848) a principle rather of national acknowledgment than individual conviction; but I feel myself at liberty to argue on the assumption, that as we are all professing Christians, we individually recognise what our law and constitution as yet maintain—that Christianity is the true religion; that national acknowledgment ceases when this Bill becomes law. No man can afterwards in this House assume Christianity to be true. The progress of toleration melted away the civil distinction between different classes of professing Christians. We would not rend the garment; are we now to cast lots for it? The importance of our national Christianity cannot be overstated; God deals

with nations differently from the case of individuals. Their equities may be adjusted when nations must have ceased to exist; and therefore the dealings with nations are temporal, and for outward acts. The dealings with a nation exhibit the principles of God's moral government. So it was in the history of the Jewish people. To acknowledge Him, to guard His oracles, to obey His commandments, insured His favour; the opposite course incurred His censure. The famine, the pestilence, and the sword inflicted national judgments; and at last the rejection of Christ as the Messiah smashed and shivered into fragments that mighty and majestic people, exhibiting in their desolation the appalling evidence of the truth they repudiated.

England has ever admitted the principle of national religion. The nation has knelt as one man to supplicate for mercy, and to offer thanksgiving. The Government of the noble lord, and I honour him for it, in a true spirit has sanctioned both. If, then, the dealing with a nation is to exhibit the course of God's moral government, and if that affixes approval or censure, blessing or judgment, according to the external act, publicly and openly manifested; and if there be reality and consistency in the Divine government of the world, I would ask, in unaffected simplicity, can we, as a people, renounce Christianity as the basis of our law and legislation, without exposing ourselves as a people to the Divine displeasure? Pass this Bill, and the deist and the infidel may consistently demand admittance to the councils of a nation having all its laws and institutions previously founded and administered on the principles of comprehensive Christianity. I am not arguing against enlightened toleration. Where the Gospel of our Saviour is admitted to be the common standard of doctrine, or the common rule of morals, we can afford to be very tolerant. The duties of life require it, and the free action of

the mind and heart seems to justify it. The colours in the ray are lost in that intimate coalescence which gives light and heat to the world when all diverge from the one heavenly source and centre. The distinctions of Christians may be blended but not confounded in the practical charities of a life of duty. But in accommodating our constitution to him who regards our Lord as an impostor, and Christianity as untrue, the very principle of our constitutional toleration is sacrificed; confusions expel consistency, and the nation ceases to honour Him who is the King of Kings.

As to the Jews themselves, how will this operate? I rejoice to think that the rejection of this Bill could not, in any respect, help forward that affliction which, in the wisdom of God, they have so long experienced as a people. I regard them with an interest I could not here express—the hermit people destined for a glory emphatically theirs, in their own loved Jerusalem. They dwell amongst the Gentile nations; they mingle not with any; their hopes cannot centre in a Gentile land; the true functions of our legislation are incompatible with their national expectations. In every country still they are one peculiar people—strangers and sojourners—looking to regain their own land: theirs, not by stratagem or treaty, but by Divine donation. A Jew could not be a citizen of England, pledged to sustain its interests as paramount, without forfeiting the noblest expectations of restored nationality. He may hate you for your creed; he must despise you if he doubts your sincerity. What may be the influence on the Jewish mind to see the great Sanhedrim of the great Christian nation making no account of the denial of their Messiah, and treating unbelief as a matter indifferent, may not be difficult to conjecture, though impossible to predict. I would ask you to pause before you so peril the constitution, and provoke the jealousy of Him whose providence has been now so signally

manifested in mercy to our favoured land. There is enough to require the faithful efforts of our common Christianity in plain and honest usefulness amongst our own people. The feeling I cherish towards the Jew is fraught with emotions too profound and solemn for the excitement of debate, and deeper still the jealous affection for the true faith of a Christian. Of that faith I desire not to be ostentatious, but I would not dare to be ashamed. I know not whether I ought to have said so much on this deeply important question. The powerful and eloquent speech of the hon. and learned member for Midhurst [Mr. Walpole] might have almost excused my silence, for I could not hope to persuade if he has not convinced. But regarding the question as one of great individual responsibility in supporting or opposing the measure, I trust I have not transgressed the fair limits of debate in the observations I have now, with sincere deference, submitted to the better judgment of the House.

On the different occasions when this question was brought forward, the member for Dublin University was always consistent with himself, and opposed the relief prayed for.

Considering that Napier had only been recently admitted into the House of Commons and was new to its proceedings, he certainly cannot be accused of being one of its silent or ignored members. In this his first session, he was constant in his attendance, served on committees, and spoke whenever he deemed the interests of Protestantism or those of his country were endangered. He opposed the extension of the

income tax to Ireland, since Ireland, he argued, was already sufficiently taxed for the purpose of swelling the revenues of the imperial exchequer. He disapproved of opening diplomatic relations with Rome, which were then under consideration, on the ground that such a course would 'recognise an authority not recognised by this country, and the result might be that that authority would come into conflict with that of the Queen, and divide the allegiance of her Majesty's subjects.' Whenever the subject of education in Ireland was brought forward he spoke warmly in favour, as might have been expected, of including the reading of the Scriptures during the hours of general instruction; if that permission were accorded, he said, the objections of the clergy of the Irish Church to the system of education adopted in Ireland would be removed, and the Church enabled to avail herself of the public grant. Upon the question of the ballot we find him among its opponents, and raising the usual objections against secret voting.

He disliked (he said) anything sneaking and underhand. In the case of juries, which had been alluded to, each man knew his fellows' mind, and the world knew the opinion of all. Could it be pretended that there were no public duties that they were bound to discharge under the constitution, which it might be inconvenient and injurious to private interest to discharge? Why not, at that rate, shut up all the avenues by which the proceedings of the House became

public? Why not have vote by ballot in the House? It might save a man from the frown of the minister. But in that House men acted under the influence—the genial influence—of public opinion. The vote by ballot was, in his opinion, inconsistent with the British constitution.

Few men, however great their talents, can wholly free themselves from the prejudices of the age they live in, and always rise, with that prescience which anticipates the future, superior to the influences by which they are surrounded. Napier we find, in certain of his objections to measures then brought forward, no exception to this rule; at the same time we see him during this his first session uncompromising in his assertion of the Protestantism he professed, and in the interpretation of Holy Writ as the one great guide of political conduct. Shortly after his return to Parliament, an important meeting was held at the National Club, of which Napier was a prominent member, and where he spent much of his leisure when in London. Most of the letters entrusted to me are dated from that establishment. The National Club was founded in the summer of 1845 for the following objects: 1. To maintain the Protestant principles of the constitution in the administration of public affairs. 2. To uphold a system of National education based on Scripture, and conducted by the ministers of religion. 3. To preserve the Church of England and Ireland in

its truth and integrity. 4. To use every effort that the government of Ireland might be conducted according to the principles of the British constitution; and for the establishment in Ireland of religious liberty. 5. And to endeavour by every means in its power to raise the social condition of the people.

At this meeting Napier spoke, and foreshadowed as it were the course in Parliament he intended to pursue. The only mode, he said, in which peace and order could be established in Ireland was from upholding the same principles and institutions by which they were maintained in England. The preservation of Protestantism was the very essence of the existence of Ireland. Why was the province of Ulster so peaceable, so moral, and so prosperous, while the rest of Ireland was not so? Was it not manifest that all those blessings were connected with, and to be attributed to, the scriptural faith and pure worship which were upheld and valued by the people? Protestantism was the key to the state of Ireland. It was a great mistake to suppose that the Church of Ireland could be separated from the Church of England, as if it had an independent existence or foundation; and his opinion was that the decisive battle of Protestant truth and Protestant principles would have to be fought in the case of Ireland. The very vitality of England was her religion, and that was truly her

Protestantism; nothing could save England but the religion of England. Englishmen should feel just as much interested in the Protestantism of Ireland as they were in the Protestantism of England, for if the Protestantism of Ireland stood they were safe, if it fell they perished with them.

As to Ireland (said Napier), what I complain of is, as regards England, that the principles of the Act of Union have not been carried out faithfully towards the Protestants of Ireland. They have not—you have not—supported our Church in that country in the way it ought to have been supported, and in the way it deserved. The Protestantism of Ireland, I tell you, is worth contending for; the Protestant clergy of Ireland are worthy of your support and sympathy; the Protestant yeomanry of Ireland are as fine a race of men as ever peopled any country in the world—they are men of independent minds, they are men of intelligence, they are men of integrity, they are loyal men. The yeomanry of Ireland are men who have not been shaken from their fidelity by cold neglect or injustice—even under all they suffered, even under all the contumely they have endured—still they are loyal and steady, calm and prepared to defend the empire—men in all respects worth supporting. We only require to have our cause brought dispassionately under the sober consideration of the fair and honest minds of Englishmen to have it fully and vigorously supported. . . . Contrast the two Churches in their fruits. Am I wrong, then, in saying that the Protestants of Ireland are worthy to be cherished and preserved? When comparisons are sometimes mentioned, Protestants are spoken of as bigoted and extravagant, and the question is asked, What do they want? We want protection to our Church; equality

of general privileges; what our religion, our loyalty, our integrity, our principles, and the Treaty of Union, all entitle us to demand. . . . We call on you to assist us in preserving our Protestant institutions, in guarding our Church as you have contracted. It is our only remaining institution. Let us in general privileges be treated on a fair equality. If annually a large public grant be made for the support of schools where the Word of God is under prohibition in deference to Romanism, surely we can and ought to expect some share of such a grant for our scriptural schools, where the great principle of Protestantism, the warrant of God's Word, is honoured and upheld? Let us, then, be dealt with on equal terms, in justice to the Treaty of Union; and I hope the mind of Protestant England will take it up in a true Protestant spirit, so that they may endeavour to understand the question for themselves, and to know our exact position.

These views we see, and shall continue to see, Napier from his first entrance into the House of Commons prominently advocated. They cropped up in almost every speech he delivered. He was never wearied of passing eulogies upon the utility of the Irish Church, and the industry and devotion of the Irish clergy; he was always opposed to a 'godless' education, though at a later period of his life circumstances compelled him somewhat to shift his ground. A firm believer in the truths of Protestantism, he was ever its uncompromising supporter, though always a tolerant antagonist of Rome ('so far as toleration is concerned,' he said in one of his

speeches, 'I feel it my duty, my bounden duty, to be tolerant; for it would be suicidal in Protestantism to be intolerant'); and above all we see that in everything he advanced or objected to he was guided by the sole desire of acting in accordance with the precepts contained in Scripture.

CHAPTER II.

IRISH QUESTIONS.

Ireland is and has always been subject to great and deplorable evils which have a deep root, for they lie in the situation of the country itself —in the present character, manners, and habits of its inhabitants—in their want of intelligence—in the unavoidable separation between certain classes—in the state of property—in its religious distinctions—in the rancour which bigotry engenders and superstition rears and cherishes. These are evils, it is true, which cannot be cured in a moment: still the question is, whether we should not adopt some plan which may lead to that cure in course of time. . . . I know that the interests of the two countries must be taken together, and that a man cannot speak as a true Englishman unless he speaks as a true Irishman, nor as a true Irishman unless he speaks as a true Englishman.—WILLIAM PITT, House of Commons, *Jan.* 31, 1799.

AT this time the most pressing question with which Lord John Russell had to deal was the turbulent condition of Ireland. Famine and disaffection were doing their work of discontent throughout the island. 'In Ireland,' said her Majesty in her speech from the throne, 'the loss of the usual food of the people has been the cause of severe suffering, of disease and greatly increased mortality among the poorer classes. Outrages have become more frequent, chiefly directed against property, and the transit of provisions has

been rendered unsafe in some parts of the country.' To mitigate these evils the Government introduced various measures of relief. Large numbers of men were employed on public works, while those who were occupied on their own holdings were supplied with food through local relief committees acting in connection with the poor law guardians. Several thousands of pounds were spent in the purchase of seed and in the reclamation of waste lands. The poor law also was so extended as to authorise out-door relief in food to such able-bodied applicants as could not be put to useful labour. Still these measures failed to effect much benefit to the Irish people. 'Day by day,' wrote an Irish journal, 'the accounts that reach us are becoming more horrifying. There is scarcely a county in Ireland in which the people are not starving.'

Nor was this the worst. When men have to suffer bitter privations they are within measurable distance of revolt. Goaded by misery the Irish turned against their masters, and sought to satisfy their discontent by vindictive measures. Homesteads were burned, cattle houghed, and unpopular landlords shot down. Indeed, so threatening was the situation, and so marked the spread of sedition, that one of the first Acts which ministers felt themselves called upon to introduce was to renew the law

passed in the preceding year for suspending the Habeas Corpus Act in certain of the disaffected districts. The measure was brought forward by Sir George Grey, then Home Secretary, and was cordially approved of by Napier. He considered such a step absolutely necessary for the restoration of confidence and security among the well affected in Ireland, and for the suppression of the spirit of disaffection which in certain parts of the island scarcely courted concealment. There would be great danger, he said, if the Act were now permitted to expire.

The position which Napier occupied in the House at this time was somewhat anomalous. He faced the Treasury bench as an opponent, and yet at the same time he was a kind of unofficial adviser of the Government upon matters touching his own country. 'At this period,' writes one who was intimate with him during the earlier portion of his parliamentary career, 'the Whigs had no Irish law officer in Parliament, a position of itself sufficiently embarrassing, but which might have been made doubly so by an able lawyer in the opposition if he so desired. But faction was no part of Mr. Napier's nature or principles. To his honour, be it said, he was on every occasion ready to give his assistance to the House in answering questions and supplying information which should have been answered and supplied by some ministerial member;

and thus while availing himself of those opportunities of usefulness he acquired the respect of the House at large and the friendly regard of many individuals politically opposed to him, and he was sure at all times to obtain a ready and attentive hearing.'

In several of his letters at this date Napier makes mention with gratified pride of his already having obtained the ear of the House, of the approval which his views—especially his Irish views—received, and of the kindly feelings entertained towards him by those sitting on both sides of the chamber. Before he had been two years in Parliament he was able to write, commenting upon the position he had won for himself with humorous self-complacency, 'I am now a small great man—the "Times" informs its readers—when I come to London!' He also wrote that the labours of the session were very severe, that the late hours were beginning to tell upon his health, and that he pined for rest and fresh air. When the broiling days of summer came, and the close atmosphere of Westminster was almost unendurable, this desire for change is always the burden of his song in the frequent bulletins of parliamentary work and life which he addresses to his wife.

One of the chief features in the character of Joseph Napier was the frank and consistent manner in which he maintained his religious views. He was

never, no matter how mundane the assembly he addressed might be, ashamed of the scriptural opinions he upheld, and of expressing how firmly it was his desire to build up his political faith not in strict accordance with party tenets, but solely as it rested upon the basis of revealed truth. Keen and earnest politician though he was, he never forgot that his first judgment upon any question was not how it stood to Conservatism, but how it was sanctioned by the commands of Christianity—of that Evangelical Protestantism which was the great animating spirit of his pure and blameless life. We shall have occasion to notice during this session of 1849 how often he felt compelled to look down upon the strife of debate from the vantage point of the Bible, and to draw his conclusions in accordance with its teaching.

In the debate on the Habeas Corpus Act an opportunity offered itself for him to defend the creed and communion which had always been most dear to his heart. In the course of opposing the measure, Mr. Roche, the then member for Cork, had stigmatised the Irish Church as 'that gross and intolerable monopoly which stood at the head and front of Ireland's grievances.' Napier went out of his way to combat the accusation. He denied that the Irish Church was a monopoly, and maintained that its existence was of incalculable benefit to Ireland—the

true bond of union between England and Ireland. He was ready to meet any challenge against that Church upon every ground—upon the ground of its antiquity, the truth of its doctrine as being conformable with Scripture, the correctness of its discipline, the unbroken succession of its spiritual leaders from the earliest ages down to the present time; all its long catalogue of bishops, he said, many eminent for their piety and learning, could trace their descent from the days of St. Patrick. He would go from the South to the North of Ireland, and trace in all its territorial extension the benefits and advantages of Protestantism. He found it foster no sedition or insurrectionary spirit; whilst in Protestant Ulster in particular, prosperity, industry, and every blessing that gave temporal and spiritual happiness to man reigned co-extensively with that Protestantism which contained the germs of everything that could make a people prosper for time and eternity.

This staunch adherence to the virtues of Protestantism Napier considered was injurious to his interests in the reporters' gallery of the House, where there is always a large contingent of Irish Roman Catholics doing work for their respective newspapers. He had been opposing the withdrawal of a grant called Ministers' money, which was a tax for the sup-

port of Protestant clergy levied upon the Roman Catholics living in certain corporate towns in the south of Ireland. Napier advocated the imposition of this tax, since the title of the Irish Church to the income was, he said, as good as the title by which any landlord held his land. If the Protestant clergy discharged their duties usefully and properly, they ought, he argued, to be paid; and if they were to be paid, it would, he supposed, also be admitted that the labourer was worthy of his hire.

I spoke last night (he writes, March 28, 1849, to his wife) on the abolition of Ministers' money. The Popish reporters (for unfortunately almost all the men who report are Romanists) have done me as much injustice as is in their power. My own friends, who carried the division by a large majority, were quite pleased, and Mr. Hamilton [his colleague in the representation of Dublin University] approved of the course I took. But it shows me what I may expect whenever I cordially advocate the cause of the Church. Sir Robert Peel listened to me with evident attention, so much so as to attract observation. At the same time I would rather I had not spoken, but I could not have omitted without apparent neglect of duty.

The next subject relating to Irish affairs which engaged the attention of Napier was a proposal brought forward by Sir Charles Wood, then the Chancellor of the Exchequer, to grant fifty thousand pounds out of the Imperial Exchequer for the relief

of certain poor law unions in Ireland. Napier opposed the motion, contending that the grant was utterly inadequate even to save the starving people in the Connaught Unions alone from death. Ten more such grants, he said, would be at least required. He asserted that the system involved in these grants was vicious in principle, unjust in practice, and impolitic with respect to the suffering districts themselves. It was the duty of the Government not to treat Ireland as a mendicant, but rather to introduce without delay such measures as would in future obviate the necessity of applying to Parliament for relief of this nature. This suggestion was accepted, and a Select Committee appointed, of which Napier was a member, to inquire into the state of the Irish poor law.

Upon the issue of the report of the committee, Lord John Russell moved a resolution that in each of the next two years there should be paid by every union in Ireland a sum equal to the rate of sixpence in the pound on each electoral division in such union, to go to a general fund for the relief of the poor in Ireland. An interesting debate ensued upon this measure—the Rate in Aid Bill as it was called—which was entered into by most of the leading members of the House. Napier opposed the resolution, denying the justice of making the solvent unions bear the defalcations of the insolvent. He considered it

unconstitutional and unjust to impose on Ireland separate national taxation for the wants of particular localities so long as the revenues of Ireland were paid into the exchequer of the empire. Such a proceeding was unwise, was difficult of execution, and would not answer its proposed object. His main position with regard to the working of a poor law, either in England or Ireland, was that no money should be levied in one union for the support of paupers in another union, when the one had no control over the expenditure of the rate in the other. He asserted that neither the law of Elizabeth nor that of 1838 recognised the principle of responsibility beyond the limits of the particular union, much less could the Poor Law Extension Act be considered to do so. Thus, he argued, to levy money in England for such a purpose would be unjust, but to do so in Ireland would be both unjust and dangerous. There should be no intervening medium between local rating and taxation and imperial rating and taxation. Under the Act of Union, Ireland had a right to expect in an emergency such as then existed an imperial and not a mere Irish grant for her relief. Then he concluded by censuring the Government for its persistence in temporary expedients unaccompanied by those remedial measures which should have been introduced at the same time as the schemes for relief were suggested.

There were three things (said Napier) Ireland wanted in order to promote her welfare. The first was repose, a cessation of political differences and angry feelings and disputes; secondly, capital; thirdly, the exertion of private individuals for the purposes of agricultural improvement. Any policy that would ensure even one of these three things ought in his opinion to meet with favour on the part of the House; and any course of action which was likely to have a contrary effect ought to be discouraged. Now, let him for a moment test these three subjects by the feeling of the people of Ireland; and a large proportion of them were perfectly capable of forming a judgment upon them. The House must be already aware that the majority of the Irish people had expressed opinions unfavourable to the measure, and that in some instances threats had been held out with respect to obedience to the law. His own hope was, that if the bill should pass, its provisions would be quietly obeyed; but at the same time he was of opinion that obedience might be purchased at a very dear price. From the opinion which was known to prevail upon the subject of the measure, he thought that it would tend to weaken the affections of the loyal portion of the people of Ireland towards England, and that it would engender feelings of animosity towards British legislation. . . . With regard to the question of capital, if it was considered advisable to make advances of the public money, could they not be made under ordinary circumstances, and not by diminishing the shattered remnant of the capital which remained in the country? It was this constant system of taxing property in Ireland that deterred men who had capital from employing it, and thus private enterprise was paralysed. . . . With regard to the financial argument in respect of Ireland—if it were the real sound feeling of England—not that unhealthy feeling which induced a desire to

shift a burden from their own to other shoulders—if the sound feeling of this country were that Ireland ought to bear any additional taxation, he would not put forward a mere financial argument against such a feeling, because he was very anxious that there should be good feeling on both sides; ill-feeling on either or both sides could only be injurious to both countries, therefore he thought it both unwise and ungenerous to press such a measure. There ought, in common justice, to be either local rating or local taxation, or, that failing, then the appeal for aid ought to be made to the imperial treasury.

The speech of Napier on this occasion was much approved of, and the member for Dublin University was cordially congratulated on its close by those who sat on his side of the House. Sir Robert Peel, who seems always to have been very friendly disposed towards him, called it 'a very able and temperate speech, worthy of Mr. Napier's high character for ability and moderation.' Passing through the lobby of the House shortly afterwards, Napier met Sir James Graham, who said, 'I congratulate you on your most able and eloquent speech—it was worthy of the best days of old Ireland, the days of Plunket eloquence.' The people in the North of Ireland were greatly excited about the Rate in Aid, and in Belfast were much disappointed that their own members had not taken a more prominent part in the debate. When, however, the newspapers reported Napier's speech,

the good folk of Belfast were much delighted, and consoled themselves with the reflection that if Napier was not their member, he was at least a man after their own heart. 'Ay, ay,' said a stout Presbyterian, when spoken to upon the subject, 'our Mr. Napier has done his duty like a man. I see Sir Robert [Peel] has noticed him just nine times over in his speech—I counted them myself.'

You will be glad to hear (writes Napier to his wife) that my speech to-day has been *most* successful. Sir George Grey both in the House and personally to myself paid me *the highest compliments*, so has Sir W. Somerville, Lord Castlereagh, Captain Bateson, and all the influential men. Some have asked me to put it in a pamphlet. The London papers have made a mere skeleton report, as it was a mere Irish question.

In spite, however, of the arguments of the Opposition, the motion of Lord John Russell was carried, and the Rate in Aid Bill became law by a large majority.

Though during this session Irish questions absorbed the lion's share of Napier's time and energies, we find him speaking at some length upon two subjects which specially appealed to his religious sympathies, and to his interpretation of that Book which was his one guide to conduct. The first occasion was when he addressed the House upon the much vexed subject of amending the law relating to marriage

within certain degrees of affinity. He spoke twice upon this topic during the session—February 22 and June 20, 1849. The second occasion was when he opposed the motion of Mr. Bernal Osborne (July 10, 1840) to reduce the Irish Church, and to appropriate its surplus revenues to secular purposes. It is needless to say that Napier resisted, in the most direct and uncompromising manner, marriage with a deceased wife's sister or with the niece of a deceased wife. When Mr. Stuart Wortley introduced his Bill to effect that object, Napier, in common with the then Mr. Roundell Palmer, Mr. Beresford Hope, Mr. Henley and others, objected to the innovation since it was forbidden by Divine authority. He said

that the feeling of his constituents on the subject was so strong, and he so completely concurred in that feeling, that he was anxious to avail himself of the opportunity of briefly stating the grounds on which he should give his most determined opposition to the Bill in all its stages. The question was one of the highest importance with reference to the social system prevailing in the country. Marriage rested on two grounds. It had a religious basis, and it had a civil sanction. With respect to the religious view of the question, he could only say, that no evidence which commissioners might produce could shake a conviction to which he had come on Divine authority. He did not form his conclusions on the subject from private interpretations only. He had the mind of the Church of England, of the Church of Ireland, and of the Church of Scotland, and a concurrent

Christian testimony of centuries, that those marriages were forbidden by the law of God, to guide him in the matter; and the contents of that Book could not remove the decision at which he had arrived under such guidance. Others differed, and had a right to differ from him upon the subject; but it would be his duty to act on the conviction which he sincerely entertained. It had been said that there was a class of persons whose feelings would be outraged if this Bill were not passed. But they had no alternative except to do violence to the feelings of persons who had advisedly violated the law, or to do violence to the great mass of the people of this country, to the whole people of Scotland, and to the members of the Irish branch of the Established Church. They must choose between these two courses. Which would they adopt? Would they condescend to stoop to the animal passions of the violators of the law; or would they uphold and ratify and reverence a religious feeling consecrated by the concurrent testimony of ages? They had in favour of the existing law a strong religious conviction, a social system based on that conviction, and all those feelings connected with home which were so dear to Englishmen. But they were then called upon to disregard these considerations and to defer to man's passions! Christianity, however, did not stoop to man's passions; it compassionated human infirmity, but it entered into no compromise with the vices of manhood. But, setting aside the religious view of the matter, he thought that there might be very intelligible reasons for the present law in the social system itself. He believed that the intimacy which necessarily subsisted between persons connected by affinity required to be guarded by very hallowed feelings; and that advantage was afforded by that wise provision which interdicted these marriages. If they once stepped beyond the demarcation set down by the Word of God, where would they stop? There was a reasonable fact in the

history of the Irish Church, bearing upon this subject, which he wished to state to the House. He found that in the eighth century, before the Irish Church had been handed over by England to the see of Rome, a canon had been passed denouncing the marriage of a man with his deceased wife's sister, and placing it on the same footing as the marriage of a female with the brother of her deceased husband. He admitted that the right honourable and learned gentleman (Mr. Stuart Wortley) had brought the question under the notice of the House with great ability and moderation; but as he could not help thinking that the proposed measure was opposed to the Word of God, and would dangerously interfere with domestic happiness and the most sacred relations of private life, he should feel it his duty to give to it his most earnest, firm, and determined opposition.

Against the motion of Bernal Osborne for the reduction of the Irish Church Napier spoke after the same direct and straightforward fashion. Why, he asked, should the Irish Church be attacked as if it were a sect, and its revenues curtailed when they were only sufficient for its purpose? The Irish Church was a real and genuine Church, and the one great barrier in the country against the dominant Romanism.

I assert (he said) that the Established Church is identified with the earliest Church of Ireland, of which it preserves the purity of doctrine and discipline. Have they altered the discipline? Their bishops are the successors of the early bishops of the Church. Whether in doctrine or discipline, I am willing to put the matter to the test. I am ready to try

its doctrines by the Word of God, and to prove its regular succession. You want to establish the Roman Catholic religion in the place of the present Irish Church [No, No!]. You say 'no'—and why, therefore, do you want to interfere with the property of the Church? When pure in doctrine, and before it was subject to Rome, the country prospered. When the doctrine was corrupted, and the authority of Rome allowed, prosperity ceased. But, it is said, the Reformed Church has not been successful. Is it the wish of those who now assail it, to make it more efficient? I doubt their sincerity as religious reformers. I ask the Roman Catholic members, what do you complain of in reference to the Church? You say you do not want property, but you require toleration. You have the amplest toleration. I am not here about to refer to the solemn pledges given and oaths taken as the condition on which the Emancipation Act was passed, nor do I for the present rely on the maintenance of our Church as a fundamental part of the Treaty of Union. I ask the Dissenters, who profess to advocate what they call the voluntary principle, with what consistency can they interfere with the Church to which I belong, when it does not in any respect interfere with any one of their privileges? There is no public grant for the Church; it has its own property, protected by a sacred and prescriptive title and solemn treaty. It derives no aid from the public treasury, though Roman Catholics and Presbyterians do obtain public assistance. In Ireland, at least, there is not any personal charge which any man is compelled to pay to support the united Church. It was candidly admitted by the hon. and gallant member (Mr. Bernal Osborne), that the exertions and conduct of the clergy of our Church had been most exemplary and useful; I believe there is not to be found a more faithful body of earnest and devoted men. In latter times the Church has been of real value to

the country, and its influence may be traced in the localities where it is exercised. Even if you look to the mere wants of the members of its own communion in Ireland, is the property of the Church too large to maintain it, as Protestants desire it should be, in efficient decency? No doubt those who dislike its scriptural faith and those who despise its apostolic discipline would give an unfavourable answer: but they are surely not the judges of what in this is right and proper. The Church which upholds the faith of eighteen hundred years, and challenges a free appeal to the pure Word of God, has a title to be honourably sustained. I admit that, in former times, it did not perform its great duties in Ireland. But why was this? Its appointments were made subservient to the political convenience of England: and those who had the patronage abused it for unworthy objects. What is the remedy? Give us godly and learned bishops, men who will maintain and encourage God's truth, and edify the people. Let your appointments be made in this spirit; protect the Church in its rights, encourage it in its duties, and use it as the great institute for imparting saving knowledge and true blessing to the people.

His speech on this occasion was attentively listened to, and met with the full approval of his party.

The best report of my speech (he writes to his wife, giving another fling at the Popish tendencies of the reporters) is in the 'Morning Herald,' but at the same time there are all the traces of Rome in the manner of the report, suppressing the occasional cheers and clipping away parts of sentences. The 'Times' gives a sensible abstract, but not a just report of the speech as a whole. However, all here [the National Club]

were greatly pleased with it; and from all sides I have been tendered grateful acknowledgments of having served the cause of truth.

It was these evangelical opinions, and the precious store he set upon the study of the Word of God, that caused Napier to oppose at this time the educational system adopted by the National Board in Ireland. In order to make the scheme of education comprehensive, and not to interfere with the religious scruples of the Roman Catholics, the perusal of the Bible was placed under strict control in the Board Schools. The priests, interpreting the Bible after their own fashion, declined to have it commented upon by the light of Protestant teaching, and therefore voted for its exclusion; the Protestants on the other hand warmly opposed this view, and denounced the system of what afterwards came to be called 'godless education.' Eventually a compromise was entered into — the Educational Board limited the hours during which the Bible was to be read and referred to, and required the schoolmaster to send Roman Catholics away during such hours. To this course Napier objected as a betrayal of a great principle. Such a course, he said, embodied a principle antagonistic to that on which they had hitherto acted. They had acknowledged the religious duty of educating the people; and such a step, as a Legislature,

they had taken; to whom, then, he asked, were they responsible?

There was no power between them (said Napier, June 5, 1850) and the Supreme Power on high. Therefore, as a Christian Legislature, they were bound to honour God and perform His will to the utmost of their legislative ability. This duty they had recognised, and had accordingly based on religion the education of the people. They could not serve two masters; they might choose between them. They might exclude religion from their schools, and give only a secular education, or they might make religion the basis of education; but to reconcile the two systems was impossible. 'As men,' said Locke, 'we have God for our King, and are under the law of reason. As Christians, we have Jesus the Messiah for our King, and are under the law revealed by Him in the Gospel.' It was upon that principle, not from any feeling of fanaticism, but on the sober principle of Christian piety, that they had hitherto acted with respect to education. They regarded the moral part of education as the important part, and the morals of Christianity as the highest form of moral principle. If, then, Christianity was something more than a fiction, how could they, a Christian Legislature, having to discharge a public duty, consent to this scheme, or what blessing could they hope to attend their labours?

Napier was anxious to cross over to Ireland at this time, but he felt it was his duty to remain at his post. 'This debate,' he writes to his wife, 'I cannot shirk. The strength of all the religious body will be required, and will be put forth. It is considered to be the beginning of the war between the

infidel and the religious elements.' A few years later, as we shall have occasion to relate, he changed his views somewhat upon the subject of this compromise, and had to encounter no little obloquy for what was considered a desertion of principle.

We have only to refer to the pages of 'Hansard' during the closing years of the Russell administration to see how vigilant and active Napier was, as a politician, in discussing the different Irish questions that arose—some he opposed, some he approved of, but upon all he brought to bear his cogent arguments and special knowledge, so that before he had been three years in the House he was looked upon as a marked man, and should the ebb and flow of political fortune tide the Conservatives into power, he was assured of office. In his letters to his wife at this date he continues to speak with gratification at the position he had acquired, how he was gradually becoming intimate with the leaders of his party, how one distinguished man after another desired to be introduced to him, and how frequently, on matters that fell within his special province, his opinion was asked for. He had developed from a 'small great man' into the position of the truly great man, which his eloquence, his industry, and his sound practical knowledge of the wants and woes of his country justly entitled him to assume. As a politician he

had become a keen critic, but as a lawyer he was no less conspicuous. Prominent among the schemes of the Russell Cabinet were the various Acts to facilitate the sale of encumbered estates in Ireland, and, since no member of the opposition was competent for the task, it fell to the duty of Napier to revise and criticise these measures. The two chief features of these Acts were the creation of a special court to provide a more expeditious mode of sale, and to give purchasers a guarantee of title. Thus writes a friend:

> A diligent and constant attendant on his parliamentary duties, to which he ever postponed professional emolument, Mr. Napier spoke on all the leading questions before the House and sat upon all the important committees. The Report upon the Receivers under the Irish courts of equity was prepared by him, and he afforded valuable assistance in the 'Process and Practice Act' which was publicly acknowledged by Sir John Romilly; also in the Criminal Law Amendment Act and others; while he prepared and carried through the House, even in the days of the Whigs, the admirable ecclesiastical code which is justly regarded as a great and substantial boon to the Protestant Church and clergy.

This code afterwards went by the name of Napier's Ecclesiastical Code.

A suggestion of considerable importance to the future interests of Ireland was now raised from the Treasury bench which met with the unsparing and

patriotic opposition of Napier. It was proposed by Lord John Russell that the office of Lord Lieutenant of Ireland should be abolished, and the duties entrusted to a Secretary of State. The Lord Lieutenant, said the Prime Minister, was an official far more injurious than beneficial to Ireland. He was placed in a kind of anomalous position; he was asked for everything, applied to for everything, and blamed for everything, without having the power belonging to his situation. He had the responsibility but not the freedom of action of a minister of the Crown. By blending the Irish administration with the general administration of the United Kingdom this anomalous state of things would be ended, and the jealousy and resentment which were so often directed against the Lord Lieutenant by the different parties in Ireland be extinguished. He therefore proposed to abolish the office, and to appoint in its stead a fourth Secretary of State to carry on the business connected with Ireland, with the assistance on certain occasions of the Home Secretary. To this arrangement Napier objected.

I am anxious (he writes to his wife, June 17, 1850) to speak clearly on the question of the Lord Lieutenant, and the more so as the 'Times' and indeed the English Press generally are with the Government, so that I may not get fair play in the report, and my arguments may not be treated with much ceremony by the editors. After deep and earnest consid-

eration I think I ought to speak and vote against the abolition of the office at the present time, and especially when no adequate substitute is proposed. There is a good deal of anxiety to know what course I shall take, and I am disposed to think some will be influenced by what I deliberately advocate and advise.

When the Prime Minister introduced his measure Napier spoke against it.

They had heard (he said) much talk of identifying Ireland with England; but he would tell the House in one word, that it could not be done. Attract the sympathies, conciliate the feelings, and gain the affections of her people they might; but they never could remove those national peculiarities, or destroy the distinguishing lineaments which had been stereotyped by the hand of God. He hoped the day would come when such distinctions as the laws could remove would be seen no more, and that the genial influence of the British constitution might be brought fully to bear upon Ireland; but they must permit the people to cherish their peculiarities; and in the wisdom of Bacon, if they wished to conquer nature it must be by obedience. . . .

He would ask the House what was the present condition of the people of Ireland—were they not most deplorably depressed? He would not be hypocritical enough to contend that a powerful argument might not be founded upon the effect of the proposed change on Dublin; but he was bound also to look at the view which the people of Ireland generally were likely to take of such a question. They, he doubted not, would regard the whole policy of it with alarm. The people of Dublin would view with regret the withdrawal of the Court; they would view it in connection with the ungenerous discontinuance of all the grants made to their hospitals; they

would look on it as a measure calculated to crush a respectable class that had hitherto endeavoured to maintain a good position by industry in trade. Was this, then, the time to propose a measure for abolishing the office of Lord Lieutenant of Ireland—a time when the whole social system had been racked and shivered, and the country so recently smitten with sterility; was such the fitting time to bear hard upon the feelings of a suffering people? Surely that was the last moment that any one should choose for the purpose of trying political experiments upon afflicted and impoverished Ireland. In England the proposed change might be regarded in one point of view; but he did not doubt that the people of Ireland would regard it otherwise; he feared that they would view it as an insult in their distress if they could not find that any sound political argument had been urged in its support. They had their national peculiarities as well as other people—national peculiarities which nothing could efface; the land of Burke and of Wellington might cling to her national feelings with pride, and at least without rebuke. The people might naturally expect that the Government of this country ought to begin at the right end; that they ought to proceed first upon principles of sound legislation; that they ought not to allow the vessel of the State to drift—that the time had come when they ought to steer. When they succeeded in somewhat raising the people of Ireland to comparative prosperity, then perhaps experiments might be tried. Feeling that this new separate system could not be rendered salutary or effective—believing that the Irish Government in Dublin might be allowed to remain there, and yet be stripped of many of its evils, he therefore could not vote for this Bill. As to the present Lord Lieutenant of Ireland (Lord Clarendon), he had had little intercourse with him; but in that little he found him candid, courteous, and patient, and doubted not that,

with a Cabinet capable of furnishing him with sound instructions, that noble lord was equal to the task of governing Ireland with satisfaction and advantage to the country and the empire at large.

The proposal came to nothing. The measure of Lord John Russell was approved of by a large majority, but owing to the pressure of public business it was not proceeded with.

Shortly after the delivery of these objections to the abolition of the office of Lord Lieutenant the sudden death of Sir Robert Peel occurred. It cast a gloom over the House of Commons and damped the spirits of the nation; for now all vindictive passions were silenced, and men only remembered the numerous beneficial measures the departed statesman had introduced. Napier especially felt the loss of this great man, as Sir Robert had always proved a kind and encouraging friend to him, and frequently consulted his judgment. He never heard Napier, said Peel on one occasion, without wishing to hear him again. The adjournment of the House was moved by Mr. Hume, who paid a feeling tribute of regret to the deceased; the proposed mark of respect was concurred in by Sir Robert Inglis, Sir W. Somerville, and Mr. Gladstone. Napier, who was bringing forward some criminal business on that day, also added a few words.

As I am connected (he said, July 3, 1850) with some of the Bills which are set down as orders of the day for to-day, and which I have endeavoured for some time to bring before the notice of the House, perhaps I may be permitted to say how willingly I would waive everything to testify in any manner I could my esteem for the right hon. baronet, and my sorrow and regret for the loss which the country has sustained in his death. It is a very curious circumstance that a large portion of the legislative measures to which I was about to ask the attention of hon. members had been supplied to the House by the legislative wisdom of that great man who has just been gathered to his fathers. It was this which inspired and encouraged me to follow humbly the efforts of him who, by legislation in connection with the records he has left in the criminal jurisprudence of the country, has given us memorials of enlightened wisdom which entitle him to claim the gratitude and the homage of all classes of the country. I was struck, Sir, this morning, when the news came to me of the death of the right hon. baronet, when I thought what a few short hours it was since he stood in his place in this House, in the vigour and fulness of intellectual power, chastened but not impaired by its maturity, to think what shadows we are, and that the life of the wisest and the strongest of us is but as a wavering flame. I gladly, Sir, postpone all matters connected with the business of the day, and most willingly concur in this, the only tribute which we can pay to the memory of the right hon. baronet upon this occasion.

An agitation now spread throughout the country which enlisted the full sympathies of Napier. In the year 1850 sanguine Rome, encouraged by the efforts

of the ritualists, was under the impression that the England which had repelled her advances since the days of Cardinal Pole was ripe to receive those views which she had rejected at the Reformation. During the last few years the English Papists had been appealing to Rome to be placed on the same footing as their brethren across St. George's Channel. Instead of the vicars apostolic who then superintended their spiritual condition, the English Roman Catholics wished, as in Ireland, to have the country parcelled out into sees, and bishops openly acknowledged once more to rule over the land of A'Becket and Pole.

This desire was now to be gratified. A Bull was issued by Pius IX. ordaining the re-establishment in England of a hierarchy of bishops deriving their titles from their own sees. The whole country was mapped out into dioceses and placed under the spiritual jurisdiction of Cardinal Wiseman as Archbishop of Westminster. The excitement created throughout England by this proceeding was intense. Meetings were held denouncing in the strongest language the Pope's Bull and the intruding archbishop. Addresses poured in upon the Queen from all parties and from all institutions, breathing the most fervid loyalty. The one cry throughout the country was 'No Popery!' Lord John Russell was far too combative a man and too great a tactician

to allow such an opportunity to be ignored. The Whigs—owing to the failure of their budgets, their foreign policy, and their system of taxation—were daily becoming more and more unpopular. The Prime Minister now thought he saw his way to appeal to the passions of the hour and improve his political position. He wrote his celebrated 'Durham letter,' and on the meeting of Parliament introduced a Bill to prevent the assumption of 'certain ecclesiastical titles in respect of places in the United Kingdom.' The measure gave rise to much and varied discussion. Napier, in common with the rest of the members of the National Club, warmly approved of the Bill.

It was no question (he said, Feb. 12, 1851) of theological controversy. Let them strip it of all the verbiage and all the excitement that had been thrown around it, and what had they? They had at one side the claim of a foreign prelate to exercise ecclesiastical jurisdiction in the territory of their sovereign, and they opposed to that the fixed principles of the British constitution, and they said the claim was incompatible with their constitution. On that, issue was joined, and the Government asked to bring in a Bill, not to infringe religious liberty, but to raise a barrier against future aggression. In making that proposition they were backed by the feeling of the entire people of the country—the strength, the bone and sinew of the country—they were backed by the universities, by the Church, and by the bar of England, and also by an authority of great consideration—he meant Sir Edward Sugden, who in a speech of unparalleled clearness stated his calm

and deliberate opinion to be that the aggression of the Bishop of Rome was incompatible with the constitution of the country, and in direct collision with, and in antagonism to, the existing laws of the realm. If that be so—if the people of this country and the United Church of this country, if the Church in Scotland, and the different nonconformist bodies, with one voice and heart denounced this aggression, if the bar of England said it was opposed to the constitution, and if Sir Edward Sugden, coming calmly from the retirement of his closet, was of the same opinion—was it not right that they should pass such an enactment as was deemed necessary on the subject?

We know the fate of this measure. After much discussion the Ecclesiastical Titles Bill was enrolled on the statute-book; it was, however, a law which was never obeyed, and after being treated for several years with quiet contempt by the very party it was expected to suppress, was ignominiously repealed.

CHAPTER III.

OFFICE.

In this country the depository of power is always unpopular; all combine against it; it always falls.—*Coningsby.*

THE Russell Government had long been tottering to its fall, and upon the occasion of the Prime Minister introducing his Militia Bill in the February of 1852, Lord Palmerston took his revenge of his old colleague by mercilessly criticising the measure, and thus causing ministers to find themselves in a minority of eleven votes. Thereupon Lord John Russell resigned. 'I have had my tit for tat with John Russell,' writes Lord Palmerston to his brother, 'and I turned him out on Friday last.' Lord Palmerston himself, we remember, had been compelled by his late chief to resign the seals as Foreign Secretary on account of his unconstitutional conduct in compromising the Foreign Office by a too free expression of his private opinions upon the ticklish question of the *coup d'état.* It was said that the real reason for the resignation of the Russell Government was the fear of being defeated on

a vote of censure as to the conduct of the Caffre War which was on the eve of being moved. 'As it is,' writes Lord Palmerston, 'the late Government have gone out on a question which they have treated as a motion, merely asserting that they had lost the confidence of the House; whereas if they had gone out on a defeat upon the motion about the Cape, they would have carried with them the direct censure of the House of Commons.' On the resignation of Lord John Russell the Earl of Derby was commanded to form an administration, and expressed his readiness to attempt the task.

With the fall of the Russell Government and the accession of the Conservatives to power, Napier felt assured that the time had now arrived when the name he had made for himself in Parliament would be recognised by the offer of office from his party. The post of Attorney-General for Ireland was the one he specially coveted, and for which his legal attainments coupled with his practical experience of parliamentary life eminently qualified him.

The Whigs are out at last (he writes to his wife, Feb. 17, 1852), and it is probable that before this day week I shall be the Attorney-General for Ireland. It is generally thought that they feared to encounter the debate of Tuesday next on the Caffre war, and they availed themselves of the pretext of a beating last night to resign. May God, from whom all power is derived and all good counsels proceed, give us

strength and wisdom, and may I feel, in whatever position His providence may place me, that His glory and the good of my fellow men should ever be present to my mind and heart!

Within a week of the overthrow of the Russell Cabinet Lord Derby had fixed upon those of his colleagues who were to fill the chief posts in his administration, and early in March all arrangements were complete. Mr. Disraeli was Chancellor of the Exchequer, Mr. Spencer Walpole Home Secretary, Lord Malmesbury Foreign Secretary, Sir John Pakington Colonial Secretary, and the Duke of Northumberland First Lord of the Admiralty. Lord St. Leonards was Lord Chancellor, the Lord Lieutenant of Ireland was Lord Eglinton, whom Napier describes as 'a man of elegance and dash, and what is commonly called in politics a sound Protestant,' while the subject of this biography, correct in his surmise, was appointed Irish Attorney-General.

You were prepared for the news (he writes to his wife). The Cabinet is formed. I have not yet had the *formal* announcement, but I am gazetted in the 'Herald' and 'Standard' as the Attorney-General. I suppose to-morrow I will receive a formal letter. New writs are to be moved for on Friday, and our elections in the ensuing week. All public business stands over, and I may hope to see you all soon—to-morrow I suppose I can speak with certainty. You would be surprised how quietly I take my promotion, with the title of Right Honourable, as I will be a Privy Councillor. I am

sensible, indeed, of the goodness and gracious watchfulness of that merciful Heavenly Father who has ever been so tender and gracious to me. Oh! how weighty is the obligation for all His mercies and blessings—spiritual and temporal. May I be enabled to act as His servant in whatever be my position! I trust my dearest children, and you, my dear good faithful wife, may share largely in every benefit and good from this elevation. I have never descended to one unworthy artifice or any step of inconsistency to attract the favour of the great. Promotion and honour come from the Giver of every good and perfect gift.

The next day Napier received formal notification of his appointment.

I have just returned (he writes to his wife) from Lord Derby with my formal promotion announced by himself—that the Queen had signified her gracious pleasure that I should be her Attorney-General for Ireland. Whiteside [his brother-in-law] was apprised that he was the Solicitor-General, and so we are now virtually in office, the formalities to be completed at once. . . . Nothing could be more graceful or kind than his [Lord Derby's] communication, and I cannot but be very thankful that I have been raised to this post of trust, honour, and responsibility, without any unworthy artifice, any intrigue, any crooked device, or other effort inconsistent with the honour of a gentleman or the duty of a Christian senator. And now, my dearest Cherry, much of my joy arises from the recompense to you and my beloved children in sharing the honour which, in the goodness of God, has been bestowed on me. In looking back on my life's recent events, how mercifully has the whole been adjusted. It is so gratifying to find the expression of opinion here [the National

Club] amongst all parties so decided in commending the promotion of which I am the subject.

With the exception of Mr. Disraeli, the Cabinet formed by Lord Derby was far from a strong one. It was composed of peers almost unknown twenty miles from their park gates, and country gentlemen, excellent chairmen of quarter sessions, but who had never prominently come before the public or had made themselves a name in the House of Commons. It was essentially an administration of untried men, for even Mr. Disraeli had until this moment never before held office. This lack of experience among ministers gave rise to the following story. Shortly after the new Prime Minister had prepared his list of those to serve under him, the Duke of Wellington, anxious to learn who were to constitute the Tory administration, took the first opportunity, when Lord Derby entered the House of Lords, of asking the names of those who had agreed to hold office. As the Prime Minister went through the catalogue of unknown men, the Duke, who of late years had become rather deaf, and who had never heard before of several of the ministers, kept up throughout the conversation a running query of 'Who? Who?' in the loud tones of a deaf person. The peers opposite, much amused at this incessant interrogation, and also at the perplexed air of his Grace as name after name of men he

had never met, and of whose political existence he had until then been in total ignorance, was bawled into his ears, at once christened the new Cabinet the 'Who? Who?' ministry. The nickname was quickly taken up by club idlers and the editors of newspapers, and the Derby administration during the first weeks of its career was never designated by another title than that conferred upon it by Whig wit.

From the return of the Tories to power it was feared that Protection would be substituted for Free Trade, and ministers were more than once asked as to their intentions of reversing the policy of Messrs. Bright and Cobden. The course Lord Derby proposed to adopt was, however, perfectly clear to himself and his followers. He was aware that he was in a minority in the then existing House of Commons, still there was no necessity, he thought, for an immediate dissolution. When such a step was expedient he would appeal to the country, and then abide by its verdict. If the nation decided upon retaining the policy of Free Trade it would be retained; if it was in favour of Protection a return to such policy would be advocated. From March to the end of June Lord Derby, following the examples of Mr. Pitt in 1783, and of Sir Robert Peel in 1834, was content to be at the head of a Government which

was opposed by a majority in the Lower House. In the first week of July Parliament was dissolved, and the country appealed to for its decision upon the great question whether Conservatism or Liberalism was to be the dominating influence of the future. During the next few months the country was therefore a prey to the excitement and disturbance which always characterise a general election; but it was soon perceptible that, though the contest was keen, ministers would still be in a minority. Parliament assembled November 11, 1852.

Shortly after the meeting of the House Napier was called upon to undertake a task which taxed all his industry, his constructiveness, and his powers of arrangement and lucid exposition, to the utmost. He was entrusted by Lord Derby with that bone of contention the reframing of the land laws of Ireland. In this work he was ably assisted by Mr. Ferguson, of the Irish bar, a professional friend of his, and author of several valuable legal works. Since Napier's Bills on the subject failed, unfortunately for his country, to become law at that time, though most of his suggestions were afterwards cleverly appropriated, we need not burden the reader with unnecessary details. His scheme consisted of four Bills. The first was a Land Improvement Bill, which proposed to help landlords to make improvements themselves or to make

arrangements with the tenants who wished to improve.

This Bill (writes Napier in his letter to the Duke of Newcastle, to which we shall afterwards allude) is a separate measure, not necessarily connected but not improperly associated with the other Bills. In fact it is but the adaptation of the admirable and valuable Act of 1847 [1] to meet the case of an outlay of private loans or advances for the same purposes of land improvement which are provided for by means of public loans under the Act of 1847. This Act affirms a principle. It enables the proprietor to make the improvements specified in it and the two amending Acts, and to charge the tenant an additional rent though the tenant may not have assented to the improvements or the outlay. This is manifestly defensible only on grounds of public policy, as such improvements benefit the inheritance and the common weal: and therefore if a tenant be willing and able, though a landlord not, it seems difficult to say why the objection made to the latter case should never have been raised to the former. I think the Act of 1847 is a full answer to those who insist on giving no power to the tenant in making any class of improvements, however necessary, for the beneficial or convenient occupation of his farm.

His second measure was a Leasing Powers Bill, which collected and consolidated the substance of about sixty Acts of Parliament, and had for its object to facilitate and encourage the granting of leases.

[1] The Land Improvement Act, which had grown out of the Act of 1846, under which two millions of money were lent for drainage in Britain.

The general basis and scope of this Bill (writes Napier) may be gathered from Ferguson and Vance's book ('Tenure and Improvement of Land in Ireland'), p. 48 *et seq.* It consists of two parts, one to enable the making of sufficient leases, the other to enable the making of sufficient agreements for special improvements where lands are already on lease or under subsisting tenancies. It assumes that there ought always to be some party enabled to bind the inheritance so far as public policy may require for the encouragement of agriculture and turning to beneficial account the uses and resources of the soil. And what is done already but *sparsim* and in lucid intervals of occasional legislation is now proposed to be done on a comprehensive and consistent plan—making the power commensurate with the purpose, uniform in each class and under safe restrictions in all.

As to the second part of the Bill, the provisions for improvements would not be needed where a lease is given, but where there is a subsisting tenancy this provides for safely carrying out improvements *by contract.* At present this is done on some estates, but where the proprietor is a tenant for life, there is no security *beyond his life,* and yet every tenant willing to invest capital in beneficial outlay on the soil ought to have the most satisfactory security for enjoyment, or compensation if he be arbitrarily dispossessed for no default on his part. This Bill has been most carefully prepared. A slight alteration has been made, suggested by the Select Committee, or rather and especially, indeed, by Sir J. Young, and which I think now to be a valuable amendment; this I subsequently endeavoured to carry out perfectly in the Committee of the House, by which, as to one class of improvements, the tenant gets (when dispossessed without his own default) whatever the actual value at the time may be—this refers to the class made on the soil, suitable to the hold-

ing and increasing its letting value for agricultural purposes only.

This Bill has been approved by the most competent and eminent men in Ireland. I may mention the names of a few: Mr. Blackburn, Baron Pennefather, Baron Greene, Dr. Longfield, Mr. Commissioner Hargrave, Mr. Holmes, Mr. Gilmore, Q.C., and others. I consider the approval of any one of these a perfect security for the Bill, and *all have carefully considered and approved.* I had the advantage of their suggestions, which I obtained by sending confidential copies of the draft before it was introduced into the Commons.

The third measure, the Landlord and Tenant Law Amendment Bill, was a work of enormous labour. It consolidated, amended, and simplified some two hundred Acts of Parliament which then regulated the law of landlord and tenant in Ireland; thus it furnished a complete code of law upon the subject, easily to be understood by any country gentleman or educated tenant. This Bill also met with the full approval of Baron Pennefather.

Its object (writes Napier) is to consolidate and amend the law as to remedies, &c., making them effective, expeditious, and intelligible. It exhibits the relative rights, and points out the remedies for their enforcement, and provides for the clearing away of old and confused statutes and multiplied enactments, and, taking advantage of decisions made and wants ascertained, it endeavours to compile a clear and convenient law available for easy reference and use. No living authority can be greater than Baron Pennefather *on*

this branch, and therefore his sanction is (to me) conclusive. His great experience, unimpaired sagacity, and fairness of mind, his practical acquaintance with country matters, and his professional and judicial accuracy, make him such an authority on this as may be followed even by the blind without disquietude. This Bill I consider *a great boon to proprietors*; so much so that it requires on their part a liberal concession (and to be made in a liberal spirit) to the claims, nay, even the prejudices of the tenantry.

To effect this concession Napier introduced his fourth measure, the Tenants' Compensation Bill, which in principle anticipated the chief features of the Land Act of 1870. It enacted that any tenant evicted from his holding without default on his part was to be entitled to compensation for unexhausted improvements, a principle which was to apply, not only to improvements made in the future, but to improvements made in the past. Had this wise measure then become law Ireland would have been spared many years of misery, and the most venomous arrow in the quiver of the sedition-monger would have been rendered harmless.

This Bill (writes Napier) affirms a just principle, that outlay of capital or labour, to convert land into a farm, and give it suitable and valuable adjuncts necessary for its beneficial occupation, shall be secured so as to give to him (whoever makes the outlay) equitable recompense. Let it be borne in mind that no claim will arise against the landlord, unless the tenant, being in no default, i.e. not in arrear of

rent, not having sublet or subdivided his farm unlawfully, not having broken any condition of his lease or agreement, and not voluntarily abandoning the possession, is arbitrarily dispossessed by the landlord, and then whoever so dispossesses pays—by which all the difficulty of adjusting liability is got over on a principle of natural equity and sound policy.

These four Bills were introduced by Napier to the House of Commons, November 22, 1852, in a lucid and exhaustive speech, dealing with their various provisions and showing the necessity of their adoption. The proposed legislation, he said, grew out of the social emergencies of Ireland and the claims incident to the actual condition of the people. It was a responsible occasion, a great opportunity for adjusting a most difficult and intensely important question. He thus concluded:

Such then was the outline of the code which he proposed for the adoption of the House, and the acceptance of such proprietors and tenants in Ireland as might not desire to sacrifice any of those rights of property which formed the basis of civil society. Subject to these rights, and so far as their just limits would allow, he had endeavoured to meet the exigencies of Ireland in a liberal and generous spirit. In preparing this code, and in considering every suggestion submitted to him, he knew he had added many an hour of toil to a life of no ordinary labour. Every suggestion which might hereafter be offered, from whatever quarter it might come, would be accepted and considered in the same spirit in which these measures had been submitted to the House. He knew the recompense too often bestowed on those who pre-

ferred the moderate and equitable adjustment of extreme opinions and conflicting claims to the gratification of narrow prejudices, but who considered the common weal and the interests of all as paramount to the selfish demands of any class or party. The man who was clamorous about rights and negligent of duties would depreciate his labours; the grinding middleman would dislike, and the factious or fraudulent tenant would heartily condemn them—for all this he was quite prepared. Enough for him if by this code he had provided a freer course for industry, and had raised up an obstacle to injustice. If he should afford the means of developing effectively the resources of a land which God had blessed but man had blighted, the recompense would be to him an exceeding great reward. They might ask him, indeed, whether he hoped that by any measure of legislation they could bring peace and prosperity to Ireland? And he should answer that they could not, except in so far, indeed, as their legislation might be a portion of that appointed agency which He could bless whose gracious touch could make the very act of ministering to the wants of the multitude the occasion and the means of increase and abundance. The voice of mercy had resuscitated Ireland; the flush and flow of returning life reanimated her frame; but still was she bound in the grave-clothes in which severe policy and sore affliction had enwrapped her: loose her and let her go.

To complete the history of these ill-fated Land Bills, it will be necessary for us somewhat to anticipate events. Napier was correct in his conjecture that the measures he proposed would give rise to much discussion and bitter opposition. The chief battle was fought upon the Tenants' Compensation

Bill, which was considered by the Conservatives and by several Liberals as revolutionary, and a dangerous interference with the rights of property. Indeed by some Napier was accused of Communism. The fall of the Derby Government at the close of the same year which had seen these Land Bills introduced, however, now changed the aspect of affairs, and a new Cabinet came into power which had no intention of allowing to a Tory Irish Attorney-General the credit of reforming the tenure of land in Ireland. Yet during the session of 1853, Napier, in spite of the hostility of many of his friends, and the desertion of his Irish allies, who to revenge themselves for the Ecclesiastical Titles Bill had gone over to Lord Aberdeen, struggled loyally to transform his measures into law. When the Bills were ready for discussion in the House of Lords, Napier wrote to Lord Derby begging him to accord to the measures his best support. They were, he urged, a social and political necessity.

> Postponement (he wrote) will disturb property by keeping doubts afloat and agitation on foot. What has been proposed and left undecided and unsettled will be made the basis of very increased demands, and whereas at present a reduced plan will be accepted favourably and the question set at rest, so far as the reasonable class are in any way connected with the assertion of claims, if any part of the question remains avowedly unsettled I see no prospect of social peace or quiet progress.

Then referring to the abuse he had to encounter from friend and foe for his revolutionary suggestions in the Bills, he adds:

I am quite willing to bear the obloquy, misconstruction of motives and conduct, newspaper abuse, and distrust of friends whom, notwithstanding, I still respect personally, if they do not indeed defeat what in itself may really benefit Ireland and bring advantage to the very men by whom these Bills are more or less repudiated.

To the Duke of Newcastle, then Secretary of the Colonies, and who had agreed to take charge of the Bills in the Upper House, he wrote more fully. Mr. Ferguson had gone up to London to answer any queries that might be put to him, and Napier thus introduces his friend to the Colonial Secretary.

Mr. Ferguson is fully acquainted with the subject in all its details, having been the principal compiler of the book on the Tenure and Improvement of Land in Ireland by Ferguson and Vance, and also having, under my supervision, prepared the Bills now before Parliament. I may add that he is exceedingly well informed on every matter connected with the social condition of Ireland, and is a man of such integrity and good sense as justly to entitle him to the fullest confidence.

After passing this eulogy upon his fellow worker, Napier proceeds to describe in detail the nature of the four Bills which he had framed, and which we have already drawn upon in our summary of his scheme. He thus concludes his letter:

If through my humble efforts, now aided and consummated by the support of Government and the advocacy and generous confidence of your Grace in the sufficiency of my proposed measures, so much be now accomplished as may give proprietors sufficient power to deal beneficially with the soil and efficient remedies to enforce their contracts, and give tenants ample security for outlay of money or expenditure of labour and skill in established kinds of improvement—and thus consolidating property and encouraging virtuous industry, and placing both on the basis of natural justice and an equitable consideration of realities which must be allowed for—if this be done, then thanks be to the Giver of all good, and may His blessing attend our mutual labours and give them success. I know the narrow and short-sighted views of some who are blind to their own interests and the welfare of Ireland; from these obstruction may be naturally expected. And yet if they were punished by a successful opposition they would be found only to give zest to a perilous agitation, with a grievance touching the everyday feelings of the people and entangled in the great principles of property. I never have feared a *just concession* when it is made in an honest spirit—a determination to do what is right and equitable simply because it is so; *I fear injustice.* I believe the Irish people (with all their failings and frailties) apprehend and appreciate what is really fair and just as exactly and as gratefully as any people or class of people in the world—and I further believe that no concession is made in these Bills which is not *reasonable*, *politic*, and *safe*.

In now committing this anxious and interesting charge to your Grace, I beg you to accept my very best thanks for consenting to co-operate with one who has no claim on your services but what the great interests of Ireland demand from all who can help her in a time of need. I love my country;

my own temporal prospects are bound up with Ireland's destiny; may she yet realise my sincere and long cherished wishes for her progress in industry, virtue, and peace, gently and gradually growing into moral and social equality with the best and happiest parts of the fair soil of England.

But it was not to be. The enormous labour which Napier had expended upon the study of this great question, the activity of his correspondence, as the mass of letters written by him on the subject plainly bears witness, and the rare powers of condensation and arrangement he had displayed in the grouping, analysing, and rejecting hundreds of Acts of Parliament, had been spent in vain. His four Land Bills were never entered upon the statute-book, and it was left for others to avail themselves of his industry and suggestions. Still, the services he endeavoured to render to Ireland have never been forgotten, and, when opportunity offered, have been fully recognised. Years afterwards, when the Government of Mr. Gladstone introduced a Land Code for Ireland, Mr. Disraeli, then leader of the Opposition, wrote to Sir Joseph Napier (February 21, 1870), asking for certain special information. 'It is eighteen years,' said he, 'since you and I first conferred about an Irish Land Bill. It was a great thing for me then to have such an adviser, and it would have been *a wise thing if our friends had adopted the result of our labours.*' When

Mr. Gladstone's Land Act became law, Mr. Disraeli spoke to the same effect (March 11, 1870):

So far (he said) from the Conservative party having ignored the condition of Ireland question, they had, years before the introduction of Mr. Gladstone's measure, endeavoured to settle Irish matters on a more satisfactory basis. When the Conservatives had been in power in 1852, four Bills, adopting every recommendation of the Devon Commission, and which formed *a complete code* as regards Ireland, had been brought forward. A change of Government, however, prevented those measures from being discussed. *Had they passed, there would have been no necessity for the debate on the present Land Bill.* Yet during the interval between 1852 and 1860 almost all the suggestions brought forward in those four Conservative Bills had been adopted by the Government of the day. The limited owner had been invested with power to make improvements and to charge them upon the inheritance; the leasing powers of the Irish proprietor had been extended; the limited owner had been permitted to enter into contracts with the tenant; all these changes had been suggested in the four measures advocated by the Conservative party, and all these changes had now become law. Again, every provision in the Bill brought forward by the Conservative Government in 1852 to regulate the relations between landlord and tenant in Ireland had been accepted by the Liberals and inserted in their Bill of 1860. One suggestion, however, the Liberals did not accept; they omitted that *vital clause* in the Bill of 1852 which gave compensation to the tenant for improvements, and retrospective compensation. . . . Those compensation clauses which had been suggested in the Bill of 1852 *he saw inserted in the measure now before the*

House, and that alone was sufficient for him to assent to the second reading of the Bill.

Lord Beaconsfield, when opposing the Compensation for Disturbance Bill (August 3, 1880), repeated the same statement.

Mention has also been made by Mr. Gladstone within the last few months of the efforts of Napier in the cause of reform. 'The late Mr. Napier,' said Mr. Gladstone, when introducing his Home Rule Bill, 'who became Lord Chancellor of Ireland at the time when he sat for the Academic constituency of Dublin, developed very early, and with great earnestness, truly liberal views on the subject of Irish land, and made generous efforts in that behalf, which generous efforts unhappily failed.' Had these 'truly liberal views' been accepted in 1853, posterity would in all probability have never been troubled with the Land Act of 1870, the Compensation for Disturbance Bill of 1880, the Land Law Ireland Act of 1881, the Arrears Act of 1882, and the rest of the sweeping and confiscating measures which recent legislation has meditated.

Napier was, however, not long to enjoy the sweets of office. Upon the defeat of the Government, owing to the rejection of Mr. Disraeli's budget in the December of the same year which saw the accession of the Conservatives to power, Lord Derby resigned, and the Irish Attorney-General once more sat upon the

benches of the Opposition. Rest from the cares of office was now essential to him. Late hours, the fag of drawing up his Land Bills, his own work as counsel and adviser to the Lord-Lieutenant, and the worry and misconstructions to which he had been exposed both from friend and foe, had caused his health to break down. He feared at one time that he would have to abandon the excitement of life in the House of Commons. He suffered, he wrote to Lord Derby, from attacks in the region of the heart, and felt that soon he must retire from public duty and parliamentary work. He could not hope again to address Parliament at any length. 'It is, I am aware,' he says, referring to these heart spasms, 'not organic but nervous, and therefore needs as much freedom from anxiety as can be secured.' Then he alludes with gratification to his connection with the Tory ex-Prime Minister. 'Whatever be my lot, it will always be a source of pride and honour to have served my country under a banner at once indicative of chivalrous energy, elevated sense of duty, fidelity to the sovereign, and acknowledgment of the higher sovereignty of the King of kings.'

With Lord Eglinton, as Viceroy, the relations of Napier had been more intimate, and the advice of the Attorney-General upon the conduct of Irish matters was fully appreciated at the Castle. In

Ireland the influence of the law advisers of the Crown is exercised after a more close and direct fashion than in England. There the Attorney-General is not only the first law officer, and as such bound in conjunction with the Solicitor-General to advise on all legal matters submitted for his opinion, but he is also, unlike his brother in England, always a member of the Privy Council, and consequently frequently consulted by the Lord-Lieutenant on the general policy of the administration. An Irish Attorney-General, and especially when he has enjoyed, as Napier had, much parliamentary experience, is therefore both a law adviser and a general adviser of the Viceroy or Chief Secretary. With Napier his relation to Lord Eglinton was not only official, but social, for between the two men the most friendly feelings existed. Nothing can be kinder than the tone of the letters of the Lord-Lieutenant to the Attorney-General, either when asking him for advice or when offering him some graceful act of hospitality, and Napier reciprocated these attentions by granting more than the ordinary assistance required from a law officer to his chief. Upon resigning his post, the Attorney-General had begged for a private interview to say farewell. 'I consider myself fortunate,' writes Lord Eglinton (December 31, 1852), in reply, 'in having a private opportunity of expressing to you the gratitude I feel for the invaluable

24111

assistance you have given me, for the forbearance you have shown to my deficiencies and inexperience, and for the able, honest, and unflinching course which you have pursued in performing the duties of your office.'

It had been the aim of Lord Eglinton during his tenure of power to adopt a very different policy to his predecessor Lord Clarendon, who had done his best, by increasing her dissensions and exasperating her classes one against the other, to alienate Ireland from England. A careful and unprejudiced examination of the state of things across St. George's Channel soon led Lord Eglinton to come to the conclusion that much of the Irish difficulty was created by a long series of misgovernment.

First, the country had been, as it were, portioned out to noble families of great influence—undertakers, who administer everything by family jobbing. Then the people rose against the tyranny of the oligarchy, and made themselves formidable, and they had to be conciliated; and, accordingly, a new dogma was propounded, namely, that the country should be governed through the priests. But, whether it was priest or patrician, still no minister or viceroy ventured to bring the governed as it were face to face with the governors—to teach the people that the true and just function of a government was to do what was just and right because it was just and right, and to deal directly *with* the people and *for* the people, as a community, and not as an appanage—to be candid, and firm, and fair, and generous, yet to be uncompromising where principle was concerned; to tamper with no crime, to tolerate

no treason, to enter into no alliance with agitators, lay or clerical, whether in the chapel yard, or at St. Stephen's, or in courts of justice. In fine, to make justice respected by exhibiting it as pure and impartial, and the law supreme by showing it simple and uncompromising, without respect of persons. Lord Eglinton determined to attempt this novel mode of administering the affairs of Ireland. He was heartily met in his honest endeavours by those whom the Earl of Derby had given him as his law officers, advisers, and associates, and to whom he became most cordially attached. Ireland soon began to *feel* the change—to trust in the assurances which were given to her with a sincerity of manner that every heart acknowledged; and men began to understand that there is a policy which is superior to party and subdues faction, that seeks to make all parties satisfied by aiming to advance the common interest of all.[1]

Had the Conservatives remained longer in power, it is probable that Napier would have been elevated to the bench, or at least that such promotion would have been offered him. Certain it is from the correspondence before me, that he was held in high estimation by Lord Derby, Mr. Disraeli, and the rest of the leaders of the party. I am assured, however, by Lady Napier, that had a seat on the judicial bench been offered him at this time it would not have been accepted. Napier was then in the receipt of a large and

[1] *Dublin University Magazine*, March 1853. This article was written by one who knew Napier well at that time, and was in his confidence.

remunerative practice. As a judge, he said, he would but rust.

The forebodings which Napier had entertained as to his delicate state of health seem to have been exaggerated; for we find him in the following year attending at the House of Commons with his usual punctuality, and criticising as keenly the shortcomings of the Government of Lord Aberdeen, which had succeeded that of Lord Derby, as he had ever criticised the failures of the Russell Cabinet. He often, it is true, complains that the late hours do not suit him, and that he is bored with politics, but there is no evidence as to his being in any way further troubled by illness of a grave character. On one occasion he expresses himself very strongly against the slavery which a Parliamentary career engenders. 'How I would rejoice,' he writes to his wife, after having been hard at work on a Select Committee during the day, and then engaged until a very late hour at the House of Commons, 'to be relieved from the harassing toil of political life. To an Irish Conservative it is irksome and odious. If he be honest and discreet he is subjected to so much suspicion and misconstruction, and if he be a thorough partisan, he is brought into such nasty collision.'

In spite, however, of this dislike to politics we find Napier throughout the session of 1853 seldom absent

from his seat, and incessantly serving upon the numerous Irish Committees that were then formed. 'Doing duty on a General Committee,' he once remarked, 'is the severest mode of secondary punishment that can be devised for members.' During the session several questions of great interest came up for discussion, and engaged either his advocacy or hostility. He opposed with his usual consistency the Bill which Lord John Russell again brought forward for the relief of Jews from the civil disabilities then affecting them. Upon the subject of education he again spoke strongly in favour of the Bible being read in the Irish national schools, without such reading depriving the clergy from sharing in the grant out of the Consolidated Fund. 'If these clergy were in England,' he said, 'they could obtain assistance, but if any Protestant in Ireland demanded one penny out of the fund for public education while putting forward the principles established by the Reformation, he was debarred from all participation in it.' He was also in favour of an inquiry into the state of the conventual establishments of this country, so as 'to consider whether any and what regulations are necessary for the better protection of the inmates of establishments of a conventual nature, and for the prevention of the exercise of undue influence in procuring the alienation of their property.' Actuated by these same Protestant

feelings he supported the motion to inquire into the system of education adopted at Maynooth College, as he considered such system tended to destroy allegiance to the throne and bring danger upon the Protestant institutions of the country.

The chief speech of Napier, however, during this session was in opposition to the Canadian Reserves Bill, then being introduced by the Government, and which aroused all the Conservative and Evangelical instincts of the Member for Dublin University. By this measure it was proposed to enable the Legislature of Canada 'to make provision concerning the clergy reserves,' or, in other words, to sanction confiscation. These reserves, it appeared, dated from 1791, when Canada was divided into two provinces by the Quebec Bill introduced by Pitt. It was provided by that measure that whenever the Crown should dispose of waste lands, one seventh of their value should be reserved for the support of the Protestant clergy. This rule continued until an Act was passed in 1840 by the Imperial Legislature, which restrained the Canadian Legislature in the disposal of the clergy reserves. During this period, between 1791 and 1840, large quantities of land had been reserved, part of which had been sold, though the fund had not been appropriated in proportion to the numbers of each religious denomination, the clergy of the Established Churches of England

and Scotland having, it was said, received the largest sum. Great jealousy had consequently been excited in the colony; the Legislative Council and the House of Assembly had been at variance upon the subject, and an appeal was now made to the English Parliament to repeal the Act of 1840, and leave Canada to deal with the matter as she thought fit. It was, said the colony, a purely local question, and not an Imperial one.

In the House of Commons the subject was regarded from two points of view. The advocates of the Bill were of opinion that all local questions affecting the colonies themselves should be dealt with entirely by the colonial legislature; that the question affecting religious endowments in a colony was essentially local, and should be therefore treated by the local legislature; that the Act of 1840 was unduly favourable to the Church of England and should be corrected; and that once the Canadian Reserves Bill became law, religious differences would be appeased and content diffused over the whole colony. On the other hand, the opponents of the measure held a very different opinion. According to their view, the Bill was nothing more or less than a scheme for Church plunder; that it would place the Church of England upon a less favourable footing than the Church of Rome; that if the original dispo-

sition of the lands was valid, it would be a gross act of injustice to confiscate them by an *ex post facto* law; that it was an Imperial and *not* a local question, and that the appropriation of the reserves would lead to a war of religious opinions. Napier held the latter view. The Canada Clergy Reserves Bill was, in his opinion, one of spoliation; the reserves were a gift of the Crown to the Protestant clergy for the support of the Protestant religion.

The Crown (he said, March 4, 1853) was bound to defend its own grant, and it was the duty of Parliament to defend its own Acts; and he would ask if it was consistent with proper affection to our brethren to hand over this property to a party which desired to spoliate funds which had been consecrated to the object of maintaining the Protestant clergy and the Protestant religion. Another objection to the Bill was, that it was not only prospective but retrospective. If the Crown and the Parliament were no longer to have any control over this property, but allowed it to be vested in the colonial legislature, they would be assisting in the violation of an endowment made for religious purposes. This property belonged to the 'United Church of England and Ireland, and the members thereof in the same province,' a body of loyal and high-minded men; but by this measure encouragement would be given to the turbulent and the troublesome. The faith of Parliament and the honour of the Crown were pledged to the support of this endowment. How did the matter stand in point of duty and principle? He contended that it involved no principle of religious equality. This property was the gift of the Crown to the Protestant clergy and the Protestant

community. The grantee of the property in question was the Church, and the Church was essentially a corporation. He contended that the faith of Parliament and of the Crown was pledged to forbear from meddling with the clergy reserves in Canada. He was ready to adopt the sentiment *Fiat justitia ruat cœlum.* But what he understood by that was to do justice in point of principle—not to consider consequences, but to leave them to an overruling Providence, to ascertain what was right according to truth and principle, and having done that to go on fearlessly as it regarded the result. He believed that justice was not spoliation, and that when a grant was made on the faith that Parliament was pledged to maintain it, that pledge should be religiously observed. . . . The property in question was placed under Imperial control in order to restrain the colonists from dealing with it improperly. It was, therefore, not fair, after the Act of Union and the Canadian Legislature had recognised this principle, to seek to remove from the Imperial Legislature this salutary control, and to transfer it to the Canadian Legislature. He wished the matter to be clearly understood; what was the issue really to be determined; and he wished the country to be in possession of the information in order that there might be no mistake about it. It was alleged that colonial self-legislation was only aimed at; but there were other rights paramount to that object, there were the rights of property and the rights of the Church, both of which were superior to the accomplishment of colonial self-legislation. The Act of 1791 secured the reserves to the clergy, and the Crown had control in this respect, but the Bill before the House had no such distinction. He relied on the Act of 1791 because it was a fundamental and constitutional Act, and he relied on the Act of 1840 because when the union of the Canadas was agreed upon, the security of the reserves,

or so much as was not given up under the compact, was made the basis of the compact. . . . It was not for the mere purpose of making a great market for Manchester that England maintained its Colonial Empire; it was to discharge that great moral obligation which it undertook as one of its paramount duties, and when the Crown had obtained an increase of power by its conquests, that increase of power brought with it an increase of duties. If they thought it their duty to devote a portion of the property of the colonies for the security of their faith, and that Parliament had confirmed the grant, was it not most dishonourable to violate every principle upon which the rights of property were established, even apart altogether from the religious question? Circumstances might, no doubt, arise for a more equitable distribution, but that was altogether different from confiscation. While they endeavoured to effect such equitable redistribution, they should preserve the fund for its original purposes. Well then, how stood the question? Here was the faith of the Crown pledged, the honour of Parliament was pledged, and the duty of England was pledged, to the maintenance of this grant. With all these facts before them, they asked Parliament now by one fell swoop to do away with it at the simple cry of the colonial legislature. If the colonies were to be free, let England at all events be faithful. Let her preserve her honour and her faith, and let the colonies be fully empowered to preserve her possessions, but let this country, in the face of the whole world, be worthy of the honoured name and glory of Old England.

Napier opposed the Bill in all its stages; his antagonism, however, proved unavailing, for the measure became law in the same year which saw it introduced. It was also during this session that

Napier delivered a long and closely reasoned speech (March 17, 1853) upon what was called 'the Six-Mile Bridge affair.' During the contested election at Clare, certain voters whilst going to the poll at Six-Mile Bridge had to be protected from the violence of the mob by a small band of soldiers. The appearance of this guard so roused the fury of the crowd, excited by certain turbulent priests, that the soldiers were attacked and a grievous riot ensued. The soldiers in self-defence fired upon the mob, and some mortal injuries were inflicted. An inquest was held on the bodies, and a verdict of wilful murder brought in against the magistrate in command and the soldiers. The Government, anxious to curry favour with the Irish, ignored the conduct of the mob in the matter, set free the priests, and resolved to punish the soldiers.

The finale of the Six-Mile Bridge affair (writes Napier to Lord Derby) is just what I anticipated; a more unprincipled and culpable tampering with law and justice I could not conceive. There was not a case in justice and (in my opinion) none in law against the soldiers. There was a powerful case in law and justice against the priests who were the ringleaders and conductors of the ferocious proceedings which caused loss of life and grave consequences to military confidence in the protection of civil authority. Whiteside will bring over the papers and details, but, having deliberately considered the informations as affecting both parties, I can say on my own responsibility that the prosecution of the soldiers was unjust, the liberation of the priests unjustifiable.

The case came before the House of Commons. Napier warmly objected to the course the Government had pursued in the matter. He asserted that the soldiers had but performed their duty, and that it was the province of Government to protect troops when coming into collision, from no fault of their own, with a mob. The grand jury accepted this view of the question, and threw out the bill when it came before them at the Clare assizes; the Attorney-General then put the prisoners on their trial on the coroner's inquisition, when they were all acquitted.

As a pleasant relief to the labours of the session a compliment was now paid to Napier which he always valued most highly, and which received additional lustre from the kindly and unexpected manner in which it was conferred.

St. James's Square: May 5, 1853.

My dear Napier,—On the occasion of my installation as Chancellor of the University of Oxford, it is my privilege to recommend to Convocation a certain number of names for the honorary degree of D.C.L. I should be much gratified by your allowing me to include your name on my list, on which you have every right to appear as member for the sister University of Dublin, as having filled high legal office in the late Government, and I hope I may add as a personal friend with whom I should be proud to find myself thus Academically associated.

I am, dear Napier,

Yours sincerely,

DERBY.

The honour was gratefully accepted.

1 Whitehall Gardens: Friday Morning.

My dear Lord Derby,—On my return from the House last night I found your letter.

The honorary distinction intended for me is doubly enhanced by the generous and kind partiality in which your lordship's intention has been conveyed to me.

Such a connection with the University of Oxford cannot but be very gratifying to myself, and I know that my constituents of the University of Dublin will recognise the compliment as more than personal to their representative in Parliament.

The additional connection with your lordship as Chancellor of the University of Oxford I most fully appreciate. For whilst my official career has been sealed with your truly gratifying approval, confirmed by the testimony of the best and noblest Viceroy that ever governed Ireland, and the personal friendship which I have for some years enjoyed has always been valued as an honour and a privilege, the Academic bond has its peculiar attractions. Nothing, then, can be wanting, whether in past associations, present convictions, or future prospects, to bind us indissolubly in the obligations of an unflinching advocacy of the great principles of truth and freedom, which are nurtured by the institutions of our country, which never seek to separate the civil and social duties to our neighbour from the greater and more solemn responsibilities which as a nation and individually we would discharge to the gracious Giver of all good. With very kind and grateful regards,

I am, my dear Lord,

Your obliged and faithful

JOSEPH NAPIER.

CHAPTER IV.

THE TURNING OF THE TIDE.

You had that action and counteraction which, in the natural and in the political world, from the reciprocal struggle of discordant powers, draws out the harmony of the universe.—EDMUND BURKE, *Reflections on the Revolution in France.*

Le gouvernement d'Angleterre est plus sage parce qu'il y a un corps qui l'examine continuellement, et qui s'examine continuellement lui-même: et telles sont ses erreurs, qu'elles ne sont jamais longues, et que par l'esprit d'attention qu'elles donnent à la nation, elles sont souvent utiles.—MONTESQUIEU, *Grandeur et Décadence des Romains*, chap. viii.

DURING the agitated session of 1854, when, thanks to the vacillating policy of Lord Aberdeen, we drifted into war with Russia, Napier took no part in the frequent debates which arose as to the conduct of hostilities in the Crimea. It was characteristic of the man throughout his whole parliamentary life never to speak upon any subject with which he was not thoroughly familiar, and to which he could not add special information. Therefore throughout the mismanagement of our affairs in the Crimea he was silent, wisely leaving to the military critics and the leaders of the Opposition, the duty of condemning the short-

comings of the Government. He was a lawyer and not a soldier, and it did not fall within his province to pass judgment upon the blunders, which from the want of foresight on the part of the home authorities crippled the progress of the campaign; such criticism, he rightly thought, could be better left to those whose political position or technical knowledge justified the interference. Upon the few matters of domestic interest which arose during the session, he was, however, not silent. He supported the proposal, again brought forward and again withdrawn, of his brother-in-law, Mr. Whiteside, to inquire into the state of Roman Catholic nunneries, and to secure to persons under religious vows the free exercise of their rights in the disposal of property. It was not right, he urged, that the conventual establishments throughout the country should be independent of the common law of the land, should make their own special laws, and should be subject to the ruling of a foreign power.

Was it not right to consider, then (he said), whether some substitute for the law which had thus been contravened could not be found? If no remedy could be suggested, it would be far better to do away altogether with any enactments which they could not enforce; but, before they could come to that conclusion, it was their plain duty to consider the subject fully, with the best advice they could get. All that was asked for was inquiry, and there was no necessity for conducting it in such a

way as would wound the most sensitive mind. He was the last to wish to invade the territory of conscience or to intrude upon domestic privacy, but he was anxious that the House should consider whether something might not be done to give the inmates of these conventual institutions at least a periodical opportunity of declaring whether they were there of their own free will. He would submit to Irish members themselves whether it would not be wise to consent to this inquiry, instead of going into a debate which might give rise to a display of temper and angry feeling. There was no wish to go further than was really necessary to maintain the authority of our law; but as far as he was concerned, he would stand up firmly for the independence of the laws of this country against any foreign power whatever, and for giving to every subject of this realm the full and free protection to which he was entitled. The necessity of some law to prevent property from being taken away from families, and absorbed in these institutions, was admitted by many of the most intelligent and influential even of the Roman Catholics themselves.

The next subject which attracted the attention of Napier was one which always had a special interest for him—the question of legal education. He was strongly in favour of those reforms which have since been introduced into our Inns of Court—the substitution of a satisfactory test of fitness for admission to the bar, instead of the custom that formerly prevailed of merely eating dinners and keeping terms. Napier even went a step further, being desirous of establishing a special school in connection with the Inns of Court, for the education of future barristers, and the

founding of chairs in the Universities of Oxford, Cambridge, and Dublin, to teach principles of mental and moral philosophy, civil law, and general jurisprudence. He had himself, when reading for the bar, felt the want of such special educational advantages, and on this occasion indulged in the following reminiscence.

I will now mention (he said) what I found the state of education at the time I was called to the bar. I remember well having to ask experienced friends what course of reading they recommended a student to follow when he came to London for the purpose of eating a certain number of dinners. The mere dining was all that was required, and the opportunity thus afforded of learning anything was over a bottle of wine. Having an experienced friend, however, who had once practised at the Irish bar, I asked him, in my simplicity, what course of study he would recommend me to take up. The answer was, 'If you are going to the Irish bar, the best thing you can study is *Joe Miller*.' My friend also told me that, in his early days, he had read the best books, but he got no business, and he soon found that those who cracked the best jokes made the most money and carried off business at that time. I cannot say that I took the advice given to me, but it so happened that the London University was just opened, and Mr. Amos delivered a course of lectures, which I attended in order to see whether I could learn anything from them. All the instruction I had received while in London was from these excellent lectures and from Sir John Patteson, to whose chambers I went as a pupil, and whose friendship I am proud of to the present day.

When the Protestant character of Dublin Univer-

sity was attacked by those who wished the Roman Catholics within its walls to enjoy the same rights and privileges as the Protestant undergraduates, Napier came forward and vindicated in a long and eloquent speech the Protestant character of the university, maintaining that the Roman Catholics, either as undergraduates or professors, had nothing to complain of when once admitted.

Upon the motion being again brought forward to allow of marriage with the sister of a deceased wife, on the ground that such alteration in the law would put a stop to the immorality occasioned by overcrowding among the poor, Napier objected to the innovation, and passed a well deserved eulogium upon the purity of his countrymen. It was sought to extend this measure, if it became law, to Ireland, though, on account of the religious convictions of the Scotch, the country north of the Tweed was to be specially exempt from its provisions. Yet Ireland was also thoroughly averse to such marriages.

What was the fact (said Napier) as regarded Ireland? He would venture to say that all classes in that country, high and low, rich and poor, viewed the proposed change in the law with abhorrence and disgust. When he heard the accommodation of the poor alluded to, he looked to the lowly cabins of Ireland, and among them—the poorest and the humblest—he was bound to say of all persuasions—where, with all the miserable accommodation possessed by the poor,

they would nevertheless find in general as large an amount of domestic propriety as the world could exhibit. Among the poorest and humblest in Ireland there was a deep religious sentiment of domestic propriety, and he could truly say he never heard of a case of incest in that country. The people of Ireland were utterly opposed to this measure, so were the Scotch; and knowing that they were so, it had not been attempted to extend it to Scotland. Why, then, was it sought to force it on Ireland? There was in the history of the Church and Christianity one continuous stream of testimony against such marriages. It was his deliberate and solemn conviction that the present law was based upon the law of God as well as included in the social expansion of Christianity.

The chief oratorical effort of Napier, however, during this session was delivered in opposition to the Parliamentary Oaths Bill, introduced by Lord John Russell, who then held office as President of the Council. The object of this measure was to consider generally the oaths of allegiance, supremacy, and abjuration, and the oath taken by Papists, with a view of substituting one simple and intelligible oath. The oath of allegiance was, urged Lord John, an intelligible obligation, and no objection could be taken to it; but the oaths of supremacy and abjuration had been framed to meet certain dangers which no longer existed, and therefore contained matter totally unnecessary to be affirmed at the present day. Hence, he said, he had drawn up a form of a single oath

which did away with the specific declarations required from Roman Catholics, and also the words which had hitherto proved such a stumbling-block to the Jews, 'on the true faith of a Christian.' Napier, in a speech which was warmly approved of at the National Club, strenuously opposed this substitution. He declared that the Bill was dishonest, since instead of openly proclaiming its object, it burglariously broke through the barriers of the constitution to enable Jews to enter Parliament. The oaths which it was sought to abolish had been entered upon the statute-book as protectives against foreign aggression, and formed the basis of the constitution. Ecclesiastical power, not controlled by the State, must, he said, become too powerful for the State, and civil liberty could not co-exist with the ecclesiastical despotism of any church whatever. He therefore begged the House not to consent to substitute the weak and washy words of Lord John Russell for the precise and vigorous language employed by the advisers of Queen Elizabeth, and by Lord Somers at the Revolution.

The oath of supremacy (said Napier in conclusion, May 25, 1854) is, in fact, but an exposition and expansion of, and not an addition to, the oath of allegiance, and all this is in exact accordance with the fundamental principles of the constitution from the earliest times. It was not framed as a test of opinion, but as a solemn protest against the aggression of the Papacy; as a barrier by counter demonstration against

foreign power, and so long as the assumption of papal authority is maintained, so long should the protest in the oath be preserved. The question then comes to this, has the aggressive power of Rome ceased to encroach? It is not a question of theology or religious opinion, but of papal policy; yet it is not to be forgotten that the Papacy is both a State assuming dominion over independent kingdoms throughout the world, and a Church assuming jurisdiction over the consciences of all baptized Christians. It must be opposed in both capacities —as a State we must encounter it by our state policy and the power of Parliament: as a Church by a free press, right reason, and the fearless appeal to the pure Word of God. . . .

There is no difficulty with Dissenters who do not divide their allegiance by acknowledging foreign authority, nor would there be much trouble with the laity of the Church of Rome if this foreign power were not aggressive, and ever attempting to wrest away the proper authority of the constitution over all who are entitled to share in its protection and privileges. The great difficulty has been occasioned by this claim and assertion of papal authority, and the question is, whether it is not a duty we owe to our sovereign, to the country, and ourselves, to maintain the defences set up by our wise and faithful ancestors, at a time when the love of England, attachment to freedom and truth, were deep and solid; and these safeguards were erected to preserve in its integrity the independence and permanence of the constitution.

The Bill was, on this occasion, thrown out by a large majority.

The Government formed by Lord Aberdeen was a singularly strong one, for, with the exception of Mr. Disraeli, it enrolled within its ranks most of the

members of marked ability in the two Houses of Parliament. It was not, therefore, without some reason that it had been christened 'All the Talents.' Still, the administration was essentially one adapted for the piping times of peace, and, as the war in the Crimea proceeded, it soon proved itself grossly incompetent to undertake and control the conduct of hostilities on a large scale. Ministers had provided for a great war after a petty fashion, there was a want of unanimity in the Cabinet, and the consequence was that the most serious errors, owing to a lack of forethought and proper supervision, were committed, much to the detriment of the progress of the campaign. Hence a terrible and needless loss of English life ensued. Cholera broke out, and beneath its devastating influence the ranks of our regiments daily thinned. The hospitals were ill-officered, and wanted all the necessary supplies of drugs and nourishing stores. Beneath the strain put upon them, the transport and commissariat systems utterly collapsed. Provisions were sent where they were not required, and were left rotting; summer clothing arrived in the middle of winter; furs and woollen goods reached their destination when the heat was almost tropical; and nurses generally came to the bedside when the patients had died. Everything, as Mr. Disraeli said, came too late. A violent outcry was accordingly

now raised against an administration which, from the commencement of hostilities, had lived from hand to mouth, showing a total want of prescience, and providing for each successive emergency after and not before it arose. Both in the House of Lords and in the House of Commons the Government was censured for its incapacity, and Lord Aberdeen, bowing before the storm, resigned the seals of office.

And now more than the usual complications ensued as to the appointment of his successor. Lord Derby was commanded by her Majesty to form an administration; his efforts were, however, not attended with success. He offered Lord Palmerston a seat in the Cabinet, with the leadership of the House of Commons, which Mr. Disraeli had generously agreed to hand over to his rival; but the invitation was, after some shilly-shallying, declined. Much to the disapproval of Mr. Napier and the evangelical feeling of the country, places in the new administration were now offered to Mr. Gladstone and Mr. Sidney Herbert, statesmen then credited with pronounced sympathies for the extreme High Church school—or Tractarianism, as it was called at the National Club. The proposal, however, fared no better than the one laid before Lord Palmerston, and was rejected.

Thus, aware that without extraneous support,

owing to the weakness of the Conservative party, he could not constitute a Cabinet, Lord Derby had no alternative under the circumstances but to advise her Majesty to look elsewhere for her chief adviser. With elaborate minuteness his lordship laid before his peers the part he had played during this ministerial interregnum—how he was aware his party was in a minority in the House of Commons, and that it did not possess either the men or the experience out of which a purely Conservative administration could be formed; how, not wishing to be 'a minister on sufferance,' and dependent on precarious and uncertain majorities, he had unsuccessfully opened negotiations with Lord Palmerston and Messrs. Gladstone and Sidney Herbert for that 'extraneous aid' which he considered necessary; and how, therefore, he had been unable to obey her Majesty's commands, and frame a Cabinet. Then he concluded by saying that it was his opinion that the great Conservative party should not prematurely and rashly undertake the responsibility of administering the affairs of the country at the present portentous crisis.

The next step in the negotiation was that application was made to Lord John Russell to form a ministry; but after a brief attempt that statesman also had to abandon the task. Thus the appointment of Lord Palmerston as Prime Minister became inevitable.

'A month ago,' writes Lord Palmerston to his brother, 'if any man had asked me to say what was one of the most improbable events, I should have said my being Prime Minister. Aberdeen was there, Derby was head of one great party, John Russell of the other, and yet in about ten days' time they all gave way like straws before the wind, and so here am I writing to you from Downing Street as First Lord of the Treasury.'

Permit me to say (wrote Napier to Lord Derby upon the policy the Conservative chief had adopted during this political crisis) that I feel entirely satisfied that in the course which your lordship has taken you have best consulted the honour of the Queen and the interests of England. It was a necessity that Lord Palmerston should have his opportunity, and had he been shoved aside we should have been in a false and perilous position. The bubble must burst. Our force is the great and last resource of the country. I hope it may be kept well together, being assured as I am, that by firmness, discretion, and faithfulness to principle, we must in the end, and perhaps at no distant day, be in the ascendant.

A few days later Napier wrote at greater length upon the same subject. He had crossed over to Dublin, but expressed his intention of returning in time to attend a meeting to be held at Lord Eglinton's to consider the future action of the Conservative party.

It seems of consequence (he writes to Lord Derby) that our meeting should be such as to give confidence to the party, and

present the unity and right feeling which are essential to success. I think I can tell you with tolerable accuracy the views which are prevalent amongst them, and I know you will not think me to be presumptuous in offering one or two suggestions in the spirit of frankness which you always encouraged in our communications.

I found at the National Club a general approval of your prudent and self-denying course of proceeding in not seizing on office after Lord Palmerston's refusal to join; but I also found a strong remonstrance and stronger repugnance manifested against the then rumoured proposal about Mr. Gladstone and Sidney Herbert. This was before your statement. The statement has removed much of the censure, but the repugnance remains, and the general feeling has been one of thankfulness that you escaped the junction. There is still a section which growls at your lordship for having made the proposal; there is another larger and more reasonable class who objected and censured, but now acknowledge that the explanation is sufficient and with most of them satisfactory.

Another class, the largest, most intelligent, and most influential, look upon the whole negotiation with candour and good sense, and consider that you acted with a single purpose of serving the country and discharging your duty to your sovereign, and that you have acted with sound prudence and a just regard to the best interests of the Conservative party. Among these I may name Mr. Blackburne, Mr. Horsfall, M.P., Judge Crampton, Chief Justice Lefroy, and others of the same mould. With this class you will have no difficulty; with the second class it is desirable to have such further conference as will set everything right; the first class is that which requires most care in keeping them in their traces. What will probably weigh with them most is that the course taken

by Gladstone renders any future junction impracticable; and I think the clear expression of the absence of all sympathy with the school in which Gladstone has been trained may be very important in reconciling some of the recusants. They are an earnest and sincere class, very active and therefore influential; not very reasonable, but still manageable and open to the admonition of friends.

May I suggest a few points as to the future which I think of much consequence? We want to get the *hearty* support of the middle classes. As to the war they feel that England is humiliated before Europe; the honour of England must be redeemed at any price, and a bold appeal to them in this spirit would touch a chord which would vibrate throughout the whole country. As to home policy it must be *Protestant*, not in any sense of ascendency, nor of any pressure whatever on Roman Catholics, but in the true constitutional Christian sense. If for Ireland the education question could be settled even in the form proposed by your lordship and Lord Eglinton, showing a sympathy with the friends of scriptural education and a desire to give them the same privileges in Ireland as their brethren enjoy in England; if for England good men be promoted to the Episcopal Bench and a just regard shown to the sound religious feeling of the best part of the community, and a more distinct recognition of our dependence on the blessing and favour of God as a great nation, and less of the spirit of mammonism in the policy of the Government, this with an explicit announcement that the Protestantism of the country would be an especial object of your policy to protect, so as to give every communion equal and just privileges, but no favouritism to popery—I think there is nothing would be so likely to give you a hold on the hearts of the people, nor so likely to consolidate the party.

We have suffered occasionally by leaving great questions in the hands of overheated men, whilst those who ought to have grappled with them have stood aloof. This induces people in the country to say, what is this party better than another? I agree thoroughly with Disraeli in this, that on all the questions which raise the religious issue annually and periodically we ought *as a party* to be prepared with an intelligent, well-considered, and united expression of opinion. There is but one other point which I think important. It seems to me very obvious that no party can be safe which will not make *merit* and *efficiency* the primary qualification for its various offices. The public temper runs on this and will run more upon it yet.

It is evident from several of the very candid comments to be met with in the correspondence before me, that the subject of this memoir entertained no very high regard for Lord Palmerston, either as a man or a minister. Severe and decorous in all his ways—for no one more conspicuously wore the white flower of a blameless life—Napier objected to the levity which characterised the popular English statesman, to his intensely mundane view of matters, to his vanity and egotism, and to the circumstances which had on one special occasion brought his name disagreeably before the public. As a minister he considered him meddlesome and a bully, 'maintaining the influence of England by a policy of sneaking and bluster, called non-intervention, but known as intermeddling.'

I have long thought (writes Napier to Lord Derby) that the Pam worship of England has been a political idolatry that has lowered the tone of public opinion. They idolise a man who has no personal religion as if he were fit to be canonised with Baxter and Owen. They regard his foreign policy as John Bullish, and therefore the pride and glory of England. They tell you that he is a true Conservative, though they cannot deny that he got his place under false pretences of liberalism, and therefore if he is a Conservative in action he is to some extent an impostor.

And now it was, when Lord Palmerston was at the full height of his popularity, that Napier came forward to introduce a measure which, as a member of the Statute Law Commission, he had long considered, and of the necessity of which he felt fully assured. Early in the February of 1856 he moved his resolution in favour of the appointment of a Minister of Justice in the following terms:

That in the opinion of this House, as a measure of administrative reform, provision should be made for an efficient and responsible Department of Public Justice, with a view to secure the skilful preparation and proper structure of Parliamentary Bills and promote the progressive amendment of the laws of the United Kingdom.

He began his speech by asserting that while arts and manufactures had materially improved, no corresponding improvement had taken place in the framing of our laws. Indeed, the present state of the law

was a disgrace to a civilised country. Lord Bacon, writing at a time when there were little over two thousand statutes, had remarked that 'so great was the accumulation of statutes, so often did those statutes cross each other, and so intricate were they, that the certainty of the law was entirely lost in the heap.' Yet the statutes passed during the reign of Queen Victoria alone outnumbered those contained in the statute-book as it stood in the reign of Queen Elizabeth. There they were in one confused mass—the important statutes not consolidated, the unsuitable statutes not amended, the obsolete statutes not repealed. Should this state of things continue? Let them take an example from the Justinian Code, which was perfected in less than four years. It occupied but the same time to complete the Code Napoléon. Within three octavo volumes the New York Code was comprised. Why should England be behindhand in framing a Code? It was true that Commissions had been appointed and Committees had sat, but nothing came of them. What was wanted was that something should be done. He (Napier) proposed that a special department should be established, presided over by a wise and enlightened man, assisted by an efficient staff, the duty of which should be to watch the state of the law, to observe the working of the law, and to propound proper amendments. All

former efforts in that direction had failed because they were entrusted to one man, who was absorbed by other business, and was deprived of the requisite special and necessary assistance.

Now it is my opinion (said Napier in conclusion, Feb. 12, 1856) that the main cause of the failure of these attempts at legislation is the manner in which the responsibility is scattered. It does not do for a man preoccupied with other engagements merely to sit down and spend half an hour or so with the disposition to forward law reform. The members of the Government have a multitude of other occupations to attend to; there is no concentration of mental power upon this great subject. It is confessedly a great, nay, a gigantic work, requiring men of great power, ability, and energy to carry it out. But that is the very reason why that work should be attended to by a man, or a body of men, whose sole duty it should be to help forward efficient legislation. What has been said, that everybody's business is nobody's business, is perfectly true as regards legislation. We see every day individual members ushering into the House Bills on various subjects, many of which require an amount of attention which no individual member, private or otherwise, can be expected to give to them, and amid the pressure of business generally the most imperfect measures are sometimes permitted to go forth as law. If a man wants a deed connected with his own property drawn up, he will go to the man well if not best qualified to prepare it. Such, however, is not the practice in this House. Lord Lyndhurst, in compliment to Lord Brougham, said he was the *chargé d'affaires* as regarded legislation until a Minister should be appointed to preside over that important branch of the public interests. No doubt the

noble and learned lord has done great things, and the country ought to feel greatly indebted to him. At the same time, unless a man has the office and the authority properly committed to him, he cannot adequately perform the duties he may be willing to undertake. What takes place? We send our statutes before the courts; they are sometimes carped at by the judges, who, in trying to explain their meaning, are often heard to say, 'It is not easy even to guess what the intentions of the Legislature were when this Act was drawn up.' And sometimes our statutes are held up to open ridicule. The Legislature, to be sure, has sometimes retaliated upon the judges by saying that these objections are merely technical and forensic. Now that, I say, is injurious to public justice and the authority of law; it is not the state of things which should exist, or which could exist, if we had the Legislature and the judges co-operating together as they ought; the one giving us valuable suggestions founded upon their observations as to the working of the law and the way in which it might be improved, while the other body could effectually carry out these suggestions and improvements by well-considered measures of legislation.

If we had a proper person of high standing, and with the kind of staff required, he could communicate with the judges upon all subjects connected with our legislation, and could obtain ample assistance from eminent jurists and other authorities. He would also have the opportunity of receiving most valuable suggestions from all parts of the country about amendments in the law. Many good suggestions are constantly coming up from the country, but in the present state of things one does not know what to do with them. In my humble judgment, if we had a proper department constituted for this purpose, one that would receive and record every practical suggestion made to its head, that would hold com-

munications with magistrates and judges, and that would preserve a record of judicial decisions and constructions, that had in its employ a skilful body of draughtsmen to prepare Acts &c. in a proper and efficient manner, and persons acquainted with Irish and Scotch law who would see that our laws were made as Imperial as possible—it would be one of the greatest advantages that could be conferred upon the country. And we should then have the Houses of Parliament engaged with broad principles and great truths rather than with petty details, with which we have too often to deal most injuriously under the present system; we should have our Acts of Parliament uniform and harmonious. We should have our laws properly classified in our statute-books, and if we could get our laws properly expurgated, classified, and consolidated, we could at all times be enabled to amend our statutes without disturbing the whole framework of our legislation. Taking any one of our statute-books, we find the enactments flung together as with a pitchfork in a confused heap—Commissions and Committees and amateur legislation have been tried in vain. I would get rid of all that; but the reports of these Commissions and Committees might be rendered available by a proper department such as I have described. There is a great body of information now before the country supplied to us by practical men. We have a great body of wise hints which have been suggested by the working of the law. With a proper staff of good workmen all this would be available. We have a Board of Public Works, we have a Department of Public Health, we have a Board of Trade, we have a Department for the affairs of War, and it is now proposed that there shall be a separate Department for Education. I ask you, then, whether you do not think that Justice is entitled to a department as much as any one of these subjects I have mentioned? Is not

this a subject that concerns every man?—which concerns the dignity of the Legislature, the authority of the law, the security and the peace of society—for are not all these involved in the establishment of such a department, filled by eminent and practical men, to carry out one great system?

My opinion is that the current law of the land ought to be the expression of the mind of the people of this intelligent community; and that the old laws should be amended and reduced to conformity with this standard of excellence. We might thus be able to realise the science of jurisprudence which ought to fix the true boundary of wise legislation. It is not for me to dictate, though I have considered the details of this department. I think the better course to take would be to appoint a proper person in the first instance, who would be competent to organise the department and to work out the details of it. Act as regards this department as you have acted in regard to the other departments of the Government. Do it at once and do it with energy and determination. I only hope that the House, as they have got the subject before them, will now give me their opinion on my proposition. I brought it forward at the end of last session, and all my conferences with enlightened and intelligent men since then have confirmed me in my resolution to persevere with this remedy, and to take the sense of the House upon it. I ask you to unite together, like men of sense and decision, to rescue our laws and the administration of justice from the state in which they now are. Many good things have been done; but even yet in the administration of the laws we have delays which inflict hardship and injustice. But would you have had the working of many of our laws in their present inconvenient state if you had long ago established a department of this kind? Look to your Ecclesiastical Courts, and see the reforms which are so urgently required

and are still doggedly withheld. Look to your Church system —no Church discipline can be properly enforced. Look to your County Courts—they are far from being thoroughly organised and established. Look to your highest Court of Appeal, and say whether you can justify the condition in which it struggles on. Even your ordinary procedure is in an unsettled state.

Here, then, you have a great work to do. I do not see, for the life of me, why in the department of the law there should be any difference between England and Ireland in mere matters of procedure. A great object should be to relieve all courts as much as possible from technicality and form, leaving them to decide upon the substantial rights of parties. I propose that this new department of justice should occupy itself with the amendment of the old law, with the supervision of the current legislation, and with keeping a watchful eye upon all measures for the reform of the law. We are told in the Eastern fable that it was by the cleansing of the old lamp that the secret of its power was discovered. If we are in good earnest we shall be able to summon the genii of the lamp to our assistance. We shall have voices from the dead to urge us forward. We have to support us the example of the enlightened Bacon, the noble simplicity of Hale, the manly and majestic wisdom of the lamented Romilly. We shall have the aid of one who still survives—one to whose exertions in the cause of law reform a deep obligation is due; to whom may be applied the language of my eloquent countryman, that he has 'winged his eagle flight against the blaze of every science with an eye that never winks and a wing that never tires.' I mean Henry, Lord Brougham, who during a long life has devoted himself to the cause of law reform, persevering to the end with a vigour and energy perfectly wonderful at his advanced age, 'for his eye is not dim,

nor his natural force abated.' It is earnestly to be hoped that effect will now be given to a proposition which that noble and learned lord has so often and so ably submitted to Parliament. I do hope that the House will now join me in giving effect to the proposition which I now humbly make. If we are in earnest we shall succeed, and we may make our laws consistent, rational, clear, and intelligible. Then let us write them upon new tables and deposit them in the sacred ark—the respect and the affection of the people.

This resolution led to a long discussion, during which the most flattering compliments were paid on both sides of the House to Napier; finally the motion was assented to by Lord Palmerston, advocated by Lord John Russell, and carried. The dissolution of Parliament, to which we shall soon allude, however, prevented any further steps being then taken in the matter. As with his Land Bills, so with his scheme to consolidate the law, it was left to others who came after Napier to avail themselves of his labours and suggestions, and to carry into effect what he himself had proposed.

During this session we find Napier, when the restless question of education in Ireland came up for discussion, again strongly maintaining the right of the Church Education Society—a society composed of Irish Protestants which had founded schools in Ireland to compete in some measure with the schools established under the national system—to obtain a

share in the funds devoted by Parliament to education in Ireland. He also opposed, but unsuccessfully, the measure which was to sanction the retirement of the aged Bishops of London and Durham upon a fixed pension demanded by those prelates, on the ground that such an arrangement savoured of simony. If the retirement of the Bishops, he said, had been unconditional, and the matter left to the consideration of Parliament, he would have cordially approved of the step, but a conditional resignation was nothing less than a violation of the ecclesiastical law.

Upon the Resolution, still agitated amongst us, of Sir Joshua Walmsley to open the British Museum and National Gallery after morning service on Sundays, Napier spoke at some length in opposition to the movement. With many of his objections recent discussions on the subject have made us familiar. He considered that such an act would be but the insertion of the thin end of the wedge, leading to the opening of shops, theatres, and other establishments, and undermining the sanctity of the Lord's Day. He was, he said, no advocate for making the sabbath a day of gloom, but in his opinion cheerfulness and happiness were best promoted by its observance as a day of sacred rest. If the sabbath was made a day of pleasure, it could not be secured as a day of rest, and therefore any

tampering with the arrangements of Sunday as they then existed was not welcomed by the working classes. He considered that as a Christian senate they were bound to oppose the innovation that was meditated.

It had been well observed (he said, February 21, 1856) that there was no country in the world to which true religion was of more vital importance than to England, from her commercial enterprise and manufacturing activity. The argument in favour of the strict observance of the sabbath in England derived its peculiar force from the way in which the English workmen were incessantly employed on the week-days, in the great strongholds of manufactures and trade in their country. Was it not remarkable, however, that the individuals who advocated the encroachment on the Lord's Day did not ask that one moment of the other six days should be given up to the relaxation and intellectual improvement of the working classes? No; they came forward with their resolution respecting the sabbath, and, with the impulse of the false mother, they said, 'Let it be neither mine nor thine, but divide it.' The rights of Mammon for the six days were to be upheld as paramount and sacred, and the day of rest, which God had hallowed, was to be so far sacrificed also to Mammon. They would, by encroaching on the rest and sanctity of the sabbath, endanger it altogether by destroying its entirety. And he could not help thinking that it would have been much more like a real regard for the working classes, instead of trying to steal a portion of the day of sacred rest, if they had demanded for these classes some portion of the six working days for the purpose of their recreation and of their moral and intellectual improvement. They would take away the

sacredness of the Lord's Day, and along with it they would take from the labouring classes the true and abiding security which they now had of at least one day of rest in the seven. This the working classes knew perfectly well, and felt thoroughly; and it was the instinct of self-preservation that led many of the people to protest against the Resolution; and their repugnance to the Resolution was a beautiful proof of the secret and even secondary power of truth, and the interest which the people had in the predominance of true religion. It, and it alone, secured their interests in time and eternity.

If the sabbath was made for man it was also the Lord's Day, and these two propositions should be honestly taken together as inseparable instead of being unnaturally and perilously disjoined. The sabbath was made for man, because it was designed for his spiritual good under every dispensation. Originally instituted in Paradise when God ceased from His works of Creation, continued after the Fall, republished under the mighty symbolical economy of Judaism, enforced and commented upon by the life and teaching of our Blessed Redeemer, who, to guard against pharisaic formalism or improper latitude, engrafted on the literality of the divine command certain gracious and reasonable exceptions of which 'mercy not sacrifice' was the exponent; and then made perpetual by the example of the Apostles and guides of the Primitive Church as the rule for all time; that divine institution, although different in the mode of observance under different dispensations, had ever but one and the same benign purpose to be carried out, namely, the spiritual well-being of man as an immortal, intelligent, and accountable being. Man was not a mere machine to be worked like a spinning-jenny, and to stop at stated times; but He who knew what was in man, his weaknesses and infirmities, and the trials he had to

support in the toilsome journey of life, had secured to him a periodical cessation from his dull round of daily labour, and thus provided an occasion for spiritual privilege and sacred rest. It was a very curious fact that neither morning nor evening was mentioned as regarded the seventh day; thus showing it to be a symbol of the eternal sabbath. When they were asked as legislators to deal with a sacred institution which as individuals they were compelled to admit to their shame they perhaps did not observe as they ought in their private spheres—and this he did not say in any spirit of pharisaic presumption, but in a common confession of admitted shortcoming—they were bound, however, in their collective capacity in the senate to ascend to the very highest standard of duty for the rule to be followed on such an occasion as the present, instead of descending for legislative example to the level of their own shortcomings in private life.

He regarded the sabbath as one of the chief national and Christian institutions. He believed that the constitution of the country had adopted it, but he admitted, while they provided opportunity for all men to enjoy the rest and privilege of the Lord's Day, that they were not called upon to enforce by legislation any particular course of observance upon any man. But if they were not to legislate, they were the more bound to set an example which ought to be followed, and to give every encouragement to what they believed to be a sacred duty. The noble Lord (Lord Stanley) had spoken of those opposed to this resolution as being bound to deal with excursion trains on Sundays; and another hon. member had talked of its being necessary also to deal with clubs. He (Napier) would say, speaking for himself, as a matter of opinion, that all that state of things was wrong; it enabled the classes below to point to the example of those

above in a way which gave a sanction to the deviations which were condemned; it was a most serious responsibility to incur, and he must frankly admit, that if the humbler classes were admonished to keep the sabbath in a becoming way, it was more incumbent upon the higher classes to set the example by keeping it also themselves. These were matters, however, on which, though they might humbly offer their individual opinion, it was not within their province to coerce others. Every man in that House was called upon, on the motion, to act for the good of the whole people, as a responsible unit in that assembly; and they ought not by their own conduct in reference to public places to give public sanction to a measure which tended to break down or weaken the barriers which protected the day of sacred rest.

They were told that a prejudice had been got up upon this subject by the clergy. He believed that such was not the case, but that the opposition made to the Resolution sprang from the deep-seated, settled conviction of the people themselves; and he thanked God for its exhibition as a great proof of the genuine religious strength and spirit of the community. How many of them associated with the Lord's Day their happiest hours on earth and their brightest hopes hereafter! The shadow of Creation might have first fallen upon the sabbath, but the light of Redemption now shone upon it, and the beams of the descending Spirit illuminated it. It was a day which God had associated with the work of Creation ended, with the greater work of Redemption finished, with the work of the Spirit begun. It was the day on which the Redeemer rose from the grave and the Comforter came down from heaven; it was therefore the Lord's Day, on which they should rejoice and be glad, the day divinely appointed, apostolically appropriated for public worship and for common prayer, sacramental communion,

charity and mercy. The record of Scripture and the testimony of tradition alike accredited its sanctity as the sabbath of all who professed and called themselves Christians. It was made for man; it was his birthright; it was given to man that he might retire from the cares and the labours and the turmoil of the world, to enjoy the blessing of high and holy communion with his God; but he warned the House and the country, that if by one false step they parted with their birthright, they could no longer preserve the blessing.

The resolution was rejected by a large majority.

We had a glorious majority last night (writes Napier to his wife from the National Club), nearly eight to one—376 and 4 shut out, i.e. 380 to 48. Amongst the latter were the Puseyites of the worst grade, Romanists, Unitarian unbelievers, and I grieve to add the names of Layard and Lord Stanley. The presentation of petitions was quite a scene. I had 62 myself. Thank God I was enabled to bear a faithful testimony, and I never was better received by the House. I got several volleys of cheers on resuming my seat. . . . Mr. Hamilton almost embraced me last night; he said I never spoke so well—in manner, spirit, and effect. Indeed I sought earnestly guidance and grace from God to direct me with wisdom and discretion. . . . I never saw so much good feeling through the whole House; every one rejoiced and I was almost smothered with thanks for my speech. When I rose after Lord Stanley Mr. Cairns rose also, but fortunately the Speaker took me in preference. I had been asked to lead, but from the proposal of the amendment this arrangement was disturbed, and I then lay by for Lord Stanley. Mr. Cairns spoke exceedingly well, and Mr. Roundell Palmer admirably and effectively. It was a happy sight to see the House of Commons testify so unmistakably to the sacredness of the

Sabbath. . . . Old Sir Charles Napier is quite proud of me; he introduced himself, has invited me to dine with him next Wednesday if I am in town. He says I speak like a Napier, and that is the highest expression of his opinion.

The speech delivered on this occasion has since been published by the Working Men's Lord's Day Rest Association.

CHAPTER V.

LORD CHANCELLOR.

> And there he kept the justice of the king
> So vigorously yet mildly, that all hearts
> Applauded, and the spiteful whisper died.
>
> TENNYSON, *Enid.*

ON the conclusion of the Crimean war, the country had expected that the attention of the Government would be directed to questions of domestic reform, and that continental politics would cease to occupy the prominent position lately accorded them. Lord Palmerston, however, could not refrain from mixing himself up with what Mr. Disraeli called the 'little difficulties' of the hour. There was the 'little difficulty' with Persia, owing to the occupation of Herat; there was the 'little difficulty' with Central Italy, owing to the treatment of political prisoners by the King of Naples; there was the 'little difficulty' between Prussia and Switzerland about Neufchâtel; and now a 'little difficulty' arose as to our relations with China. Thanks to the hasty instructions of the Government, and to the still hastier conduct of a bellicose civil servant, we became

engaged in active hostilities in the neighbourhood of Canton, owing to the seizure by the Chinese of a vessel called the 'Arrow,' flying the English flag, engaged in piracy. The whole question turned upon the point whether the 'Arrow' was a British or a Chinese vessel. The matter was referred to Sir John Bowring, our plenipotentiary at Hong Kong, who at once decided that the ship was a British barque, and officially declared that unless the captured crew were released, and an apology offered, naval operations would be immediately commenced against the Chinese. The imprisoned crew were released as a matter of courtesy to British demands, though no apology was offered for their capture, since the Chinese asserted that the 'Arrow' was a Chinese and not a British vessel. Hereupon, the militant Sir John declared war, blew up the fort in the Canton river, and shelled Canton itself.

The whole matter naturally came before Parliament. Upon inquiry, it transpired that the Chinese authorities had throughout been in the right, and that our plenipotentiary at Hong Kong had acted with nefarious promptitude. The 'Arrow,' it was now discovered, was in no respect a British ship. She was built in China, she was owned by Chinese, she was manned by Chinese, and she was engaged in piracy. In both Houses the conduct of Sir John Bowring was severely commented upon. Lord Derby, in a brilliant

speech, brought forward a motion of censure, which was, however, defeated. Two days later, Mr. Cobden introduced his resolution condemning the conduct of the Government, and asking for a Select Committee to inquire into the matter. A keen debate occupying several nights now ensued, with the result that, on a division, ministers were defeated by a majority of 16. The motion of Mr. Cobden, much to the anger of Lord Palmerston, who warmly resented the 'factious combination' against him, was supported by members on both sides of the House; by Mr. Disraeli, Mr. Gladstone, Lord John Russell, Sir Bulwer Lytton, Mr. Roebuck, Mr. Roundell Palmer, Lord Robert Cecil, Mr. Milner Gibson, Sir Frederick Thesiger, and Mr. Sidney Herbert. Napier, who thoroughly disapproved of the 'murderous policy' of Sir John Bowring, voted in favour of the motion.

To the Prime Minister thus subjected to a vote of censure two courses were open—to resign office, or to appeal to the country. Lord Palmerston preferred the latter alternative. The case, said he, in his ministerial explanation, seemed to be of so peculiar a character that he had not thought it his duty to retire from power. He proposed, however, to dissolve Parliament and appeal to the constituencies as soon as the state of public business admitted the adoption of such a course. A fortnight proved itself sufficient to

settle the financial measures for the ensuing year; then Parliament was dissolved, and the country busied with the conflict and turmoil of a general election. Napier at once crossed over to Ireland, and made his appeal to his constituents.

I have never known (writes Mr. Gladstone, March 14, 1857, to Napier, between whom a correspondence had sprung up as to the tendency of the Palmerston policy) the prospects of a dissolution involved in so much uncertainty except as to Ireland. It is an honour to her that she is not involved in the delusion which has seized many persons in England. It is not, I think, in the towns, where the people can be addressed and reasoned with, that this is most seriously the case, but there is no doubt many of the gentry have a leaning to Lord Palmerston under the idea that he is Conservative—an idea which is mainly founded in the undoubted facts that his Government is both remiss and extravagant. But if Lord Palmerston should find in the first Parliament a majority who will only support him on condition of Radical measures, when he finds they are in earnest he will pay the price. It would indeed be a great good that political opinion should cast itself into forms and take effect in combinations more material and healthy than those that now exist, and I think it plain that although the evils of many years' growth cannot be remedied by a mere exertion of the will, yet the spirit in which you write is the spirit which when it attains to sufficient extension is most likely, under God, to bring about that result.

Napier was at this time in favour of a coalition.

As to parties (he writes to a friend—one of the pillars of the National Club) I see no hope of anything better than a

junction Cabinet, to which our trusty friends might give an independent support, and on which they might be a useful check. I cannot see what is to keep Walpole, Pakington, and Lord Stanley from joining with Gladstone, Graham, and Cardwell. It would be far better for us in Ireland, however below what we could desire, and when we cannot get the best, we must be thankful for the better. I find too a great and growing desire amongst influential politicians to abstain from all the agitation on both sides which is *polemical*, and to help forward the *social* progress of the people. I think, therefore, that the formation of a party on principles purely and properly Protestant, however desirable, is not practicable. Where are the men to guide and lead? The Protestantism of England which would prevail in Parliament is largely nonconformist, and might rapidly become Cromwellian.

The Chinese question was not the only one before the country. For some time past the spread of Ritualism, or, as it was then generally called, Puseyism, had been making great strides, and bringing within its influence many of the upper, or more properly speaking, the wealthier classes. In various quarters the Anglican Church was fast becoming a Romish institution. In spite of the bench of bishops, the Thirty-nine Articles, and the decisions then ruled by the courts of law, the clergy preached to their congregations the creed, disguise it and deny it as they might, pure and simple, of the Roman Catholic Church. Entering many of the places of worship in London—St. Paul's, Knightsbridge, was then the chief

offender—and in certain towns in the country, the spectator, unless told to the contrary, might have imagined that he was under the sway of the Vatican. The 'altar' was gorgeously draped and lighted; the air was rendered heavy and sickly by the fumes of incense; the consecrated elements were held aloft for adoration; confession was openly taught from the pulpit, and practised in the aisles; the clergy, not content with the title of priest, insisted upon the designation of 'Father'; banners with strange devices hung against the walls; and forms and ceremonies unknown to the Establishment thirty years ago were introduced into the services. These things still exist among us, but they are no longer new, and we have become accustomed to them; besides, we have discovered that beyond turning the heads of a few shop-boys, and pandering to the emotional laziness of a few sickly women, they are incapable of doing much harm to society at large. At the present day we have more to fear from the scepticism induced by research, than from the superstition induced by Ritualism.

During the years succeeding the Crimean war, the tactics of the Ritualist were fraught, however, with much danger. Peace had given a great stimulus to the industry of the country, and wealth was rapidly accumulated; gradually the aristocracy was being

pushed aside to make way for the new plutocracy. And now a grand opportunity presented itself to the ceremonialist. Ritualism is essentially the religion of the rich, for in Ritualism plutocracy sees itself reflected. It is the caricature of an ancient faith, as the plutocrat is himself the caricature of the aristocrat; it is gay and gaudy, and fond of pomp and show, like the plutocrat, having the ostentation of Rome without its authority; it is arrogant and self-asserting, its priests often concealing their social and intellectual shortcomings under the robes of sacerdotal pretensions, as the plutocrat himself attempts to hide his deficiencies by the display of his wealth and money power. Shallow, unscrupulous, and miserably effeminate though Ritualism is, every one must admit that in its earlier days it was proving itself to be an immense force in the country, and one that was daily extending its power. It stepped in, and filled up a void in the mind and occupation of women, which, thanks to the new departure upon which art, literature, and science have entered, no longer now exists. Women, like men, have nowadays their professions and ambitions to engage their minds. Thirty years ago it was different, and having no lectures to attend, and debarred by social prejudices from the employment now freely offered them, women gave to the Anglican priest what they now give to the professor.

The young lady whose matrimonial chances were not yet decided, the disappointed middle-aged woman, the elderly dame with no domestic cares, all found their allotted labour—a round of ceremonial observances and duties occupied all their leisure. What with attending early celebrations, matins, confessions, vespers, and midnight services; attaching herself to a sisterhood; visiting a certain class of sick and poor under strict clerical supervision; interesting herself in church decorations, pestering her friends for constant contributions, and distributing little sentimental works of devotion, mostly plagiarised from Rome, the hours of the well-to-do woman were fully occupied, and, thanks to Ritualism, *ennui* and inactivity were banished from the boudoir.

During the elections of 1857, the proceedings of the Ritualists, or, as they were then also called, Tractarians, became therefore a subject of frequent criticism and discussion. The contest was as much between High Church and Low Church, as it was between Liberal and Conservative. On the one side the Ritualists were taunted with their innovations and Italian sympathies, whilst on the other, severe were the diatribes against the puritanism of the Evangelicals, and especially against Lord Palmerston and his appointments to the episcopal bench. Hence the Low Church party were mostly in favour of the

liberal cause, the High Church party being on the other hand chiefly composed of Tories. Napier was thus in a peculiar position. As a prominent member of the National Club, and a staunch Evangelical, his religious sympathies were with the Low Church party—on one occasion in the House of Commons he openly expressed his warm approval of the appointments to the bench made by Lord Palmerston—whilst his political sympathies were of course with the Conservatives.

Unfortunately the 'Record' newspaper had at this time adopted a most offensive tone towards the leader of the Tory party, which alienated many of its readers, who, though Evangelicals first, were Conservatives afterwards, and among the number was Napier. At that date the 'Record,' owing to a combination of circumstances which has ceased to exist, exercised an influence over the fortunes of the Evangelical party from which it has since been somewhat deposed. In those days it had no rivals, and was the one acknowledged representative of the Low Church party throughout the country, exercising a decided authority over the teaching and activity of the Evangelicals. It was well edited, well written, and threw itself heart and soul into the cause of Lord Palmerston, upholding by many a powerful but acrimonious article his policy, his patronage, and his influence for good in

directing the fortunes of the nation. With this course no party man could find fault. Unfortunately, however, the 'Record' in its fervent advocacy of Lord Palmerston went out of its way to bespatter Lord Derby with the most venomous abuse, to misinterpret his actions, and to draw the falsest conclusions as to his policy. He was a Tractarian, a tool of the Bishop of Oxford, then Samuel Wilberforce, a friend of the 'Romish' Mr. Gladstone, and nothing, it said, could be more mischievous to the country than to reinstate such a man as Prime Minister.

It was Lord Derby (wrote the 'Record,' March 6, 1857, on the eve of the general election) who originated the education scheme in Ireland which openly ignored the teaching of the Word of God; and but for the noble opposition of the Irish clergy would have given over the whole education of the Irish people into the hands of the Roman Catholic priesthood. It was Lord Derby who was the author of the Irish Church Temporalities Bill which cut away ten of the Irish bishoprics. It is Lord Derby who has avowed his sympathy with the State endowment of the Irish priesthood. It was Lord Derby who bitterly opposed the Religious Worship Bill, and impeded to the utmost of his power that most useful measure which sanctioned the retirement of the Bishops of London and Durham. Look at his ecclesiastical predilections. His own patronage has been bestowed in two recent instances on Tractarians of the first water. He has enjoyed indeed no opportunity of showing what kind of bishops he will make as Premier; but out of nine colonial bishops who were appointed while he presided over the Colonies, eight were decided Trac-

tarians. Let it even be supposed that his lordship has no strong opinions of his own, yet he is openly associated with those who do not conceal that they have such opinions, and we may depend upon it that if he takes office he will be bound to act in deference to the ecclesiastical subtleties of the Bishop of Oxford and the avowed Tractarianism of Mr. Gladstone.

To Napier these exaggerations and malevolent misconstructions on the part of a newspaper which posed as the arbiter of Christian truth and conduct were very offensive. Between the leader of the Conservatives and the member for the University of Dublin the relations that existed were of the most friendly nature, as thirty years of kindly correspondence fully testify. Napier, therefore, resented, almost as if it were a personal matter, these frequent attacks upon his chief, and both wrote and spoke, in language that left little to the imagination, of the light in which he then regarded the journal in question. He had crossed St. George's Channel to appeal to his constituents for re-election, and had been returned at the head of the poll. At first he had been somewhat nervous as to the result.

The Palmerston mania rages (he writes to Lord Derby, March 25, 1857, on his arrival at Dublin); it will have its day. The reaction will come, but I cannot say I am very hopeful, though I am not desponding as to its probable accompaniments. The University election begins on Monday next. The Government have set up a candidate who is likely to

carry a good many votes, but still I believe that Hamilton and myself are not likely to be disturbed. The lying scandals of the 'Record' have had their effect upon many, and of course you are regarded by a considerable number as a Tractarian of a high degree, and that under your *régime* we might all be transferred to Rome. However, this has been in some instances very ably refuted and exposed, and especially by our leading journal here—the 'Daily Express.' I find one statement as to the appointment of colonial bishops, in which you are accused by the 'Record' with having appointed eight Tractarians. Now as I am resolved that my testimony shall be given openly at the hustings as to what I hold to be your genuine opinions, I am anxious to know with accuracy how the matter stands as to any colonial appointments to which your lordship was privy. I take for granted the statement is of a piece with the other false accusations of the same unscrupulous advocate of Lord Palmerston, but a good blow given by plain facts might tell with power.

Of these 'lying scandals' the refutation was complete. Lord Derby was proved to be no advocate of godless instruction, as his conduct had plainly testified during the recent debate upon the connection between the Church Education Society and the Irish National Schools, when he had voted in favour of scriptural teaching and of Irish Protestantism possessing a share of the educational grant. The Church Temporalities Bill had not been baneful to the interests of the Irish Established Church, but on the contrary, in the opinion of the more distinguished of her clergy, had been productive of much good. It was true that

Lord Derby had voted against the Bill sanctioning the retirement of the Bishops of London and Durham, but so had many other politicians—Napier among the number—whose evangelical principles were beyond question. Then his lordship denied that he was a Tractarian, or had any sympathy with the teaching of that school; he was a Protestant, and perhaps stauncher in his Protestantism than that idol of the 'Record,' Lord Palmerston. Lastly, there was not a word of truth in the report that, when Colonial Minister, Lord Derby had raised notorious Tractarians to the bench; he did not contend that in all cases he had promoted Low Churchmen, but it did not necessarily follow that because a man was not of the Low Church party he was to be stigmatised as a Tractarian. It was, however, shown that in certain of his appointments to the episcopal bench—that of the Bishop of Meath, for example—Lord Derby had made a special point of promoting marked and earnest Evangelicals.

Throughout the contest of the election, the victory of Napier was never for one moment in doubt. The very same evening of the day when the final poll was declared, he communicated the intelligence to Lord Derby.

Our election (he writes, April 4, 1857) closed to-day, and we have not merely won but *triumphed*. I have been placed at the head of the poll [the numbers were Napier, 829;

Hamilton, 791] by the largest support ever obtained in the University, and I might have increased it by at least 200, had not the Government candidate withdrawn on Thursday, after exhausting all the voters to be had at the bidding of the Castle. We then signified to our country friends not to incur the trouble and inconvenience of coming up to town to vote. Mr. Lawson [a Government candidate] has been beaten by a majority of 557, which was enough to satisfy my appetite and notify the opinion of the constituency unmistakably upon the Executive Government.

The fact is, it was supposed at head-quarters that the promotions in the English Church had bewitched the Evangelical party everywhere—that the horror of Puseyism and the reckless calumnies of the 'Record' had made all of us who had been charged with coalition to upset Lord Palmerston's Government, detestable or at least so suspected by the expectants of patronage and their numerous friends, that we might be successfully attacked everywhere, and no effort was spared to make me as odious as possible in the eyes of wavering men. But I thank God the constituency behaved most honourably, and I think the election has been well worth all the trouble and expense both to us and to the party to which it is our privilege to belong.

The opinion of such a constituency so pronounced ought to carry weight—and I am most happy to find that the 'Record' has lost much, if not all, its influence, from the manner in which it has so recklessly traded on the credulity of the class by which it is especially patronised. We have had the various topics well discussed from time to time, so that the true view of things has been disclosed in the end.

It has been a very great pleasure to me to have had the opportunity of vindicating your character, and refuting the

gross calumnies with which it has been assailed. I have reason to believe that our efforts here have been very successful in this matter.

Not every member was as fortunate as Napier. Lord Palmerston had rightly interpreted the feelings of the people. The cause he advocated was one upon which it has seldom proved a bad 'cry' to go to the country. It was said that the flag of England had been insulted, that the proud name of England had been dragged through the mire by a set of miserable barbarians, and that Palmerston, the stout Englishman, the true minister of England, had resolved upon avenging the honour of his country and upon making those who had attempted to tarnish her fair fame bitterly rue their rashness. If ever there was a moment when 'Jingoism' was rampant throughout the land, it was when the electors of 1857 rallied round Lord Palmerston upon the Chinese question, and upheld the Liberal policy. 'There never perhaps,' writes Lord Palmerston's biographer, 'was a general election which turned more completely than this one of 1857 on the personal prestige of a minister and the national confidence in one man.' The excitement of the hour militated against the popularity of certain prominent members of Parliament, for among the defeated were Cobden and Bright, Milner Gibson and Cardwell, while Aylesbury rejected Layard. The

thin and divided ranks of the Peelites also lost several of their members. On the meeting of the Lower House it was estimated that 189 new members had been returned; that the Conservatives numbered 284, and that the supporters of the 'firebrand minister,' as Mr. Disraeli called Lord Palmerston, were reckoned at 371.

This support was, however, not to be long accorded to the popular 'Pam.' The attempted assassination of the Emperor of the French by an 'infernal machine,' as he was driving to the opera, by Felix Orsini and other Italian refugees, ushered in, through a combination of unexpected circumstances, the overthrow of the minister. Upon the investigation of the matter, it transpired that Orsini and his accomplices had matured their hateful scheme in England, that they had for some time been living in London, and that the 'infernal machine' had been manufactured in Birmingham. It also came out that one Simon Bernard, a Frenchman, charged with the same offence as Orsini, had long been living in London, and was even then quietly permitted to continue his residence here. When these facts became known, a cry of the bitterest indignation was raised by France against the England which repaid the services of the French alliance in the Crimea by harbouring assassins and manufacturing articles for the fell purpose of

putting friendly sovereigns to a cruel and violent death. This feeling was given expression to by Count Walewski, the Minister of Foreign Affairs at Paris, who in a despatch to the Duke de Persigny, the French ambassador in London, inquired whether England deemed hospitality due to such miscreants, and appealed to English loyalty to forbid them the right of asylum. At the same time addresses poured in upon the Emperor of the French from his army, which reflected in the most offensive terms upon our country as the place of refuge for all that was base and monstrous.

According to our common law, it is a misdemeanour for a number of British subjects to conspire together to excite rebellion among the inhabitants of a friendly State; and as an instance of parliamentary assent to the principle of this doctrine Lord Palmerston introduced his Conspiracy to Murder Bill, which proposed to make conspiracy to murder a felony punishable with penal servitude, instead of a mere misdemeanour punishable by fine and imprisonment. A long debate ensued upon this alteration of our law, the principle of the Bill being approved of by both parties in the House. Napier spoke on this occasion in favour of the measure. In Ireland, he said, conspiracy to murder was punishable by death, and yet in England by a mere two years' imprisonment. Nor

were they to be prevented from altering by law the sneers of pandering to French interference.

Was he to understand (he said, February 9, 1858), that at a time when so much had been done to increase intercourse between neighbouring states, Englishmen were to be deterred from doing that which they believed to be right and just from a paltry feeling of self-sufficiency, and that because France asked them to make the law adequate in this, a case in which it was deeply interested, they were to say, in the face of the world, 'We shall not do this, though it is just and equitable, because France asks us'? Who could blame the French people for their attachment to the Emperor under such trying circumstances? and yet, because of that attachment were the English people to say, 'Because this measure would give protection to the Emperor of the French, and because the people of France ask it, we will not give it. Justice requires it, and France asks it, but because she asks it, we will not give it'? It had been said, 'How will England stand before the smaller states of Europe if this law be passed?' In reply, he would say that England would always stand in a right position when she had the moral courage to do what was right. Her motto must be, 'Be just, and fear not.' She ought to disregard the petty feeling, which could only affect weak minds, that she would degrade herself before Europe by assenting to the wishes of France in this matter, and doing that which she had too long neglected; for after all they had greatly neglected this question of the amendment of the law, and now that their attention was called to it, the duty should not be disregarded on the miserable plea that it would be a concession to a foreign power. He had said that France was deeply interested in this matter; but was not England concerned in it as well as France? Who

could tell what might have been the consequences to all Europe—what quantity of blood might not have been spilt—if the lives of the Emperor and his Consort had been taken on the occasion of the recent attempt?

The debate ended in permission being accorded to Lord Palmerston to introduce his Bill. But now an unexpected change in public opinion occurred. During the interval between the first and second reading of the proposed measure, the feeling of the country against French interference had deepened into a sullen and mutinous spirit. It was said that the Bill was a servile compliance with French demands, and if it were passed at all, should not become law at the present moment. The Prime Minister was accused of being the *préfet* of the Emperor, and of meanly yielding the independent authority he ought to exercise as an English minister. Then it was also asked, why had no answer been returned—for as yet no reply had been vouchsafed—to the despatch of Count Walewski? Were we afraid of him and his master? The mood of the nation was clearly indicated by the House of Commons when the second reading of the Conspiracy Bill came on. No sooner had Lord Palmerston sat down, after briefly alluding to his measure, than Mr. Milner Gibson proposed as an amendment, that 'this House cannot but regret that her Majesty's Government, previously to in-

viting the House to amend the law of conspiracy at the present time, have not felt it to be their duty to reply to the important despatch received from the French Government.'

The opportunity was not lost upon the generalship of Mr. Disraeli. It was one of those occasions when a parliamentary genius sees the course that is precisely to be pursued, adroitly presses its advantage home, and taking the tide at the flood is borne on to victory. The political situation had changed. It was no longer a question between England and France, but between the House of Commons and the Prime Minister. What excuse, it was asked, could the Government offer for not having answered the Walewski despatch? That despatch was the talk of all diplomacy, and still no reply had been vouchsafed to it. 'It was perfectly inexplicable to him,' said Mr. Disraeli, 'how the Government could be guilty of the indiscretion of laying that unanswered despatch upon the table of the House of Commons, and of making it the very basis of the legislation which they now proposed. The question they now had to decide was solely confined to the responsibility which the Government had incurred to those who represented the people of England in that House. The whole circumstance of that despatch was cloaked in mystery, and no explanation had been

afforded why it had not been answered. The Government had behaved in a perplexed, timid, and confused manner. If ministers had acted with promptitude and firmness—with a spirit ready to assert the dignity of the country, but at the same time calculated to conciliate the feelings of a faithful ally—no misconception would have occurred. The issue before them had been narrowed to a very small limit. It was a question between Parliament and the servants of the Crown. Had ministers, or had they not, done their duty?'

On a division the House of Commons decided that the servants of the Crown had not done their duty, and Lord Palmerston found himself in a minority of 19—ayes 215, noes 234. The majority was a mixed one; it was composed of 146 Conservatives, 84 Liberals, and 4 Peelites—Gladstone, Graham, Cardwell, and Sidney Herbert. Napier voted of course with his party. It is a remarkable circumstance that three Governments in succession should have been defeated by the same numerical majority, and two of them on the same day and month in the year. Lord John Russell's Government was beaten February 20, 1852, by a majority of 19; Lord Derby's first ministry was defeated December 16 of the same year by a majority of 19; and on February 20, 1858, Lord Palmerston was overthrown

on his French policy by the ominous majority of 19 —a conjunction of events unparalleled in political history. The defeat of the Government took the country by surprise, for everything seemed to lead to the supposition that the Palmerston Cabinet was about to hold a long lease of power. The Prime Minister, however, bowed to the verdict and tendered his resignation. It has been said that had he appealed to the House for a vote of confidence the opposition would have been defeated, and another measure more satisfactory to the country than the Conspiracy to Murder Bill have been introduced; this course, however, the Prime Minister declined to adopt.

Upon the resignation of Lord Palmerston, Lord Derby was sent for by the Queen, and a Conservative Government again came into power. The Cabinet thus formed consisted of Lord Derby as First Lord of the Treasury; Lord Chelmsford, Lord Chancellor; the Marquis of Salisbury, President of the Council; Lord Privy Seal, Lord Hardwicke; Home Secretary, Mr. Walpole; Foreign Secretary, Lord Malmesbury; Colonial Secretary, Lord Stanley; War Secretary, Mr. Jonathan Peel; Chancellor of the Exchequer, Mr. Disraeli; First Lord of the Admiralty, Sir John Pakington; President of the Board of Control, Lord Ellenborough; President of the Board of Trade, Mr.

Henley; and First Commissioner of Works, Lord John Manners. In Ireland Lord Eglinton was for the second time Lord-Lieutenant, with Lord Naas as Chief Secretary, James Whiteside, Attorney-General, and Edmund Hayes, Solicitor-General.

One of the first acts of the new Prime Minister, after the formation of his Cabinet, was to offer to Napier, who had proved himself throughout so staunch and faithful a colleague, the post of Lord Chancellor of Ireland. The high office was gladly accepted, though Napier, like most lawyers whose practice has been almost confined to common law, was somewhat fearful of having to rule over Chancery proceedings. As we shall see, his fears were groundless, and only characteristic of the diffidence of the man.

I have just been with Lord Eglinton (he writes to his wife); I am the Lord Chancellor of Ireland. The Queen has approved of my nomination, and all is now concluded. I sought it not; the Lord in His wonderful goodness has heaped upon me these great honours, so that I feel almost sinking under the load of favour and honour. I need truly many many prayers that I may be kept humble and faithful. The Chancellor's salary is 8,000*l.*, with a pension of 4,000*l.*, which is equal to the full pay of a puisne judge. I had a very kind note from the Lord Justice of Appeal [Mr. Blackburne]. I think he gave sufficient reasons for declining. He assures me I will be able to do the duty, and he will give me the most cordial aid. It is now ten years since I entered Parlia-

ment, and here I am at the very summit of professional elevation. It is indeed the Lord's doing, and may I be the more desirous to honour Him!

And now for a moment there was a little confusion behind the scenes. Upon the incoming of Lord Derby it had first been proposed that Mr. Blackburne, who was then Lord Justice of Appeal, should be promoted to the Seals, and be succeeded in the vacant post by Napier. Lord Justice Blackburne was, however, at that time in feeble health, and considered it advisable to decline the promotion, which was thereupon offered and accepted by Napier. We may remember that when Huskisson resigned his post in the administration of the Duke of Wellington, he subsequently wished to cancel his resignation upon rather shuffling grounds, a change of opinion which the Duke imperiously and in very decided language would not permit. Some such scene now occurred. No sooner had Napier signified his intention of holding the Seals, and was even then meditating whether he should buy his wigs and gown in Dublin or London, than Mr. Blackburne regretted his former decision and expressed his willingness to accept promotion as Lord Chancellor. He opened negotiations through his son both with Lord Derby and Mr. Napier, but without success. The Prime Minister refused to reconsider the matter.

Napier thus tells the story of his appointment to his wife:

Thank God, all uncertainty is at an end. I am and must remain Lord Chancellor of Ireland. After my appointment was made, but before it was supposed in Dublin to be finally concluded, Mr. Blackburne *repented*, sent his son here to offer his *unconditional acceptance* of the Chancellorship. Lord Eglinton sent for me this morning. I told him, 'Whatever course is for the public good and the interests of the Conservative party I agree to. If you and Lord Derby tell me what you think I ought to do, my honour and character are safe in your hands.' So he went to Lord Derby, told him what E. B. [the son of Mr. Blackburne] had stated, and what I had said. Lord Derby's answer was: 'It is now too late. I offered Mr. Blackburne the office in the handsomest manner: he refused it. I gave it to Mr. Napier, and the Queen has signified her approval. He is Chancellor, and Chancellor he must remain.' Lord Eglinton told the reply to E. B., and added that nothing could be more handsome or more honourable than the way in which I had acted throughout. . . . I am now in spite of myself on the top of professional elevation. May God keep me, and guide me, and overrule all for good!

Upon the elevation of Napier to this high post, numerous were the letters of congratulation that he received. From the correspondence preserved by this gifted man, it is plainly visible that all who had relations with him, whether official or social, were much impressed by the fine qualities he possessed, and even when opposed to his opinions, entertained a strong liking for the man as an individual. In the

House of Commons his name was never alluded to but with the regard which his abilities and virtues justly commanded. Though always basing his advocacy of, or hostility to, a measure upon the instructions laid down by revealed religion, he was never accused of cant, or derided by the easy and ready sneer. His sincerity, his earnestness in the cause he consistently upheld, the purity and single-mindedness of his principles, his straightforward conduct, were never called in question even by the most mundane and malevolent. He was liked by almost every one whom he met, whilst the few whose sympathies were averse to him ever held his name in high respect and consideration. Among his troops of personal friends, many of them of high birth and distinction, he was looked upon more with affection than with the colder feelings which generally inspire friendship. His powers of conversation, the lucidity of his judgment, his culture, his grasp of all subjects that came within his ken—these pleasantly relieved by humour, geniality, and a fashion of thought and action which quickly dispelled all shyness and stiffness, made him ever welcome in the best society of Dublin and London. It was, therefore, only to be expected that when he was raised to the highest seat upon the Irish judicial bench, he should at once become the recipient of congratulations from all quarters.

My appointment (he writes to his wife a few days later) has been hailed with acclamation. Lord Granville praised it in the House of Lords, and I am overwhelmed with congratulations from all parties. . . . Lord Roden is so delighted. He has sent in his adhesion to Lord Derby, and referred specially to the appointment of the Lord Chancellor of Ireland as so satisfactory to the best friends of Ireland that he would be a general supporter of the Government.

Among the letters of congratulation received by Napier on the occasion of his appointment to the Seals of Ireland, the following may serve as specimens:

Park Street: March 1, 1858.

My dear Sir,—I was unfeignedly rejoiced to see in the newspaper of this morning a notice that you were to succeed to the great office of Lord Chancellor of Ireland. I sincerely congratulate you that after so many chances and changes in the political world, you have at last obtained a promotion worthy of your high talents and acquirements. I heartily wish you health and strength to discharge properly its important duties, which I am sure you will do if those inestimable boons are granted to you.

Believe me, my dear Sir,
Yours most sincerely,
WENSLEYDALE.

Sir Frederick Thesiger, who had been raised to the Woolsack a few days before the promotion of Napier, by the title of Lord Chelmsford, thus writes to one with whom he had often been engaged as counsel:

Eaton Square: March 2, 1858.

My dear Lord Chancellor,—I cannot tell you with what satisfaction I hail you by this post. Every one will admit that you have won your way to the high eminence on which you stand by a course of eminent ability and of unsullied purity. The high admiration which I have always entertained for your character, and the personal esteem which so early ripened into friendship between us, has made this event an occasion of heartfelt rejoicing to me. But I look still higher than these considerations. Our noble common profession has been exposed to imminent danger, and especially in Ireland, by the raising of unworthy persons to high stations in it; I rejoice to think that, for a time at least, your elevation will have given us the security of having in the very highest position one who values and will protect high and sacred things, who will discountenance all improper and unworthy conduct, who, with a benevolence of disposition and a charity of spirit which checks all intolerance and bigotry, will yet firmly maintain the Protestant institutions of our country, and will be a burning and a shining light to cheer and to guide all good men in the path of duty. Let us jointly offer up our prayers for each other that we may be strengthened for our high duty by that adorable Being without whom nothing is strong, nothing is holy.

Believe me, my dear Lord Chancellor,
Ever yours most sincerely,
CHELMSFORD.

The following was from his old master, Mr. Justice Patteson:

Feniton Court, Honiton: March 2, 1858.

My dear Napier,—I need not say that I heartily rejoice at your appointment to the Seals in Ireland. From the time

that you presented yourself to me in the Temple, I always expected that you would be a distinguished man in our profession, and you have more than answered the expectation, for you have been and are distinguished most highly, not only as a lawyer but also as a legislator. I feel quite sure of your performing the duties of your high office not only honourably to yourself but most beneficially to the country, and I sincerely wish you long enjoyment of the office and all health and happiness. Much as I should like to see you here and show this part of the country to Mrs. Napier and your children, I should be sorry to purchase that gratification by your having leisure by being *out of office*. I am proud of my pupil room, with a Lord Chancellor of Ireland and three English judges—Williams, Crompton, and Watson—besides other considerable lawyers.

With regards to Mrs. Napier,

Believe me ever to be,

Yours affectionately,

J. PATTESON.

The Lord Primate of Ireland, with whom Napier had been in constant communication as to questions touching the Irish Church, thus addresses him:

Armagh: March 4, 1858.

My dear Lord Chancellor,—I sincerely congratulate you on attaining the highest rank in your profession, and I earnestly hope that you will be enabled by the manner in which you discharge its onerous duties to do credit to the Government which selected you to fill this situation. It has been on many trying occasions a great advantage to the Irish branch of the Church to have had your advice and advocacy in Parliament; and I know that its interests will always be jealously watched over by you so far as they may come under your

guardianship in the new sphere now opened to you. There are many occasions, as I know by experience, on which the disinterested advice of a person in the position of Lord Chancellor can be of important service to such an institution as that of the Church establishment of the country, and my experience also assures me that you will not be wanting when opportunities of this kind offer themselves to your notice.

I remain, my dear Lord Chancellor,

Yours faithfully,

JOHN G. ARMAGH.

The following was from Lord Clancarty, an old friend of the Chancellor:

Garbally: March 9, 1858.

My dear Napier,—I cannot forego the pleasure of congratulating you upon your well merited promotion to the highest office in your profession. Public opinion has ratified an appointment to which professional eminence entitled you, but from which, or indeed from any professional advancement, both you and every lawyer not patronised by Rome were altogether debarred under the policy of Lord Palmerston's Government in Ireland. His overthrow in the midst apparently of a buoyant popularity was as providential as it was sudden and complete; still less expected was the advent of the present administration to power. Generally speaking, right views appear to predominate in the public mind in reference to both foreign and domestic policy, and a desire for national improvement is combined with a wholesome jealousy regarding the moral character of public men. Let me hope that a period seemingly so propitious for poor Ireland's interests may not pass away without its influence upon her destinies, especially in the removal you have so often advocated of the obstacles that at present exist to a sound

education for the poor of Ireland. The ignorant and debased condition of the poorer classes too truly exhibits the tendency of the education policy that has so long been persevered in. The forms of inquiry, however, have now been gone through, and the opinions of statesmen now in power have been pronounced that a change is necessary. To delay it would be damaging to the character and prospects of the Government, no less than unjust to the people of Ireland. Your influence I am sure will not be wanting to procure the earliest attention to this very important subject. Pardon my having said so much upon it, I find it has taken up the most part of my letter, though I sat down only with the intention of offering my most cordial congratulations, which I beg to extend with my best regards also to Mrs. Napier.

Believe me,

Very sincerely yours,

CLANCARTY.

Among these letters of congratulation was one which he valued the most highly of all. The clergy of the Church of Ireland had presented Napier with the following address, at the same time accompanying the compliment with the gift of a large and most handsomely bound Bible, valued at eighty pounds. The address, to which three hundred signatures were attached, was thus worded:

To the Right Honourable Joseph Napier, Lord High Chancellor of Ireland.

We the undersigned clergymen of the Church in Ireland beg leave, at the close of your career as member for the

University of Dublin, to express our grateful sense of your distinguished services and our warm congratulations on your merited elevation to the office of Lord High Chancellor of Ireland.

As the friend and counsellor of the Irish clergy you have won our esteem and gratitude, and we look back with honest pride upon your course as the representative of our beloved University. Your diligent attendance on parliamentary duty, at great personal sacrifice, the position you attained in the deliberations of the House of Commons, the influence you exercised upon the tone and character of the debates, the zeal you manifested in the advancement of education in all its branches—religious, secular, legal, and medical—and the generous sympathy you evinced in every worthy object, have raised in the eyes of all men the character not only of the University, but of the representation of Ireland in Parliament. Your able defence of the interests of our national Church—your zealous vindication of her faith and doctrine, and your constant consistent conduct in the maintenance of principle, afforded a standard of senatorial duty for which, as ministers of religion, we feel thankful to Almighty God. Praying that the divine blessing may always attend you in the discharge of the exalted duties to which you have been providentially called,

We remain, your faithful and attached friends.

[Here followed the signatures of the Clergy.]

As soon as the long vacation had ushered in its welcome leisure, Napier quitted Dublin for the sea-side. He passed the heat of the summer at Bray, a

place to which he was much attached, having been one of his favourite haunts since the days of his boyhood. There was a rumour that Mr. Disraeli intended to cross St. George's Channel and pay Ireland a visit late in the autumn. Napier sent him the following invitation:

Old Connaught, Bray:
Aug. 6, 1858.

My dear Chancellor,—We have heard that you meditate a descent upon Ireland in the vacation, and I write to say how happy Mrs. Napier and myself would be to have you here for whatever time you might find it convenient to stay. Should Mrs. Disraeli accompany you, Mrs. Napier desires me to say she will most gladly welcome her to our home.

I am here in the mansion formerly occupied by my illustrious predecessor Lord Plunket. I finished my sittings yesterday with the exception of a special sitting for Friday. I have cleared off all the arrears left by my predecessor, all my own business and all the appeals, so I can enjoy vacation with a clear conscience.

Ireland has improved wonderfully, and I think our policy of moderation and firmness, with a conciliatory spirit and a desire to act impartially, must be of the greatest value to all classes, and I believe it is generally so appreciated.

I have to congratulate you most sincerely on the distinguished ability with which you have led the troops this session, and with many happy recollections of my parliamentary labours on the same benches with yourself,

I am, dear Chancellor of the Exchequer,

Yours ever sincerely,

J. NAPIER.

The rumour was, however, but a rumour, for the reported visit of Mr. Disraeli to Ireland was never made out.

It was during his tenure of the office of Chancellor that Napier was elected President of the Jurisprudence section of the Association for Social Science. The meeting of the association was held in Liverpool, but owing to his judicial duties Napier was unable to attend its deliberations. He, however, wrote the address, which was read by Lord John Russell. This address, owing to the collapse of the association, cannot now be obtained, and since it contains much valuable matter and is pregnant with suggestions many of which have since been acted upon, no apology is needed for placing extracts from it before the reader interested in the life and work of Joseph Napier. The subject was 'On Jurisprudence and Amendment of the Law.'

In proceeding to open the section of jurisprudence (he began) I have gratefully to acknowledge the honour conferred upon me by the council in selecting me to be the president of this, the first department of social science. The place which has been assigned to jurisprudence cannot but magnify my office; it assuredly furnishes a conclusive and crowning testimony in favour of a separate and responsible department of administration for the affairs of public justice. You are aware of the address to her Majesty the Queen, which, by the judicious and efficient support I received from

the noble lord the president of this association [Lord John Russell], was carried in 1857 by aunanimous resolution of the House of Commons and to which a very favourable reply was promptly returned to the House, a reply most gracious and truly responsive; but there the movement ceased. Lord Bacon has wisely observed that 'propositions have wings, but operation and execution have leaden feet.' We must melt them if they will not move. The same great authority has said that 'the establishing of good laws makes a whole nation to be a well ordered college or foundation.' It is therefore a matter of great public consequence that our laws should be kept in harmony with the progressive spirit of this free nation; they ought to bear the impress of the age in which we live, and be truly worthy of the public justice of a wise and understanding people. The progress of a people in the great onward movement of humanity might be supposed to lead to the reduction rather than to the increase of their laws; it might be expected that men would be constrained by laws written in their minds and hearts, so as to dispense with many positive commands and prohibitions. This is relatively true. But, on the other hand, the conventional arrangements of a growing civilisation call for the frequent interference of authority, and in meeting the demands of new combinations of society, and in adapting the ancient laws to the growing wants of an inventive age, a great work is to be done in the department of jurisprudence—a work worthy of being well and wisely done; not, therefore, to be done at any time under sudden pressure or impulse, for then it may be ill-considered and improvident—nor even to be done in the niggard spirit of a stingy concession, for then it may rather minister to discontent than to social improvement. It must be done generously, efficiently, and responsibly.

The present chaotic condition of our laws I must, at the

outset, say is a grave reproach to so great a nation. In saying this, I do not mean to suggest that we have not good laws; on the contrary I am satisfied that we have many which are not unworthy of their connection with that universal law so beautifully described by Hooker, 'Her seat is in the bosom of God, her voice the harmony of the world.' And let me say further, and I say it with a thankful and a hopeful spirit, that in the last thirty years much, very much, has been done in the great work of law amendment; in the repeal of obsolete and apocryphal enactments; the improvement of judicial procedure, both by increasing the speed and reducing the cost of obtaining justice; in the establishment of local courts, and the awakening of public attention to the gradual improvement of our entire system of jurisprudence. Much of this has been brought about by the energy of those master spirits (I speak both of the living and the dead), not ministers, but high-priests of justice; men who, in the good providence of God, have been raised up from time to time, and have imparted living power, and loftier views, and clearer intelligence to public opinion; to that which, in the end, must test and discriminate and separate the true from the false, reject what is unsuited for immediate use, but absorb what is in keeping with the 'sensus communis,' what nourishes the real life and accords with the inherent laws which govern the progressive development of society. Of these master spirits, one is here among us, Henry, Lord Brougham; and if I say of him in this place what I have said of him in the House of Commons, it is because this is stereotyped in the deep conviction of my heart; he has sped his eagle flight against the dazzling blaze of science with an eye that never winks, a wing that never tires—an eye not dim, nor his natural force abated; with all the triumphs of his long and useful life, in which he

has won so many battles in the cause of jurisprudence, we have him now, with the unabated energy of youth and the matured experience of age, helping forward the work of this great national association.

Præsenti tibi maturos largimur honores.

Napier then proceeded to pass in review the improvements that had of late years taken place in the administration of the laws regarding the sale of land and the practice of bankruptcy. He thus continued, introducing matters which, as the reader of this biography will perceive, had more than once engaged his attention as a member of the House of Commons:

I come now (he said) to a subject in which I have for some time felt a great interest, the consolidation and amendment of our criminal law. Commission after commission has reported, Select Committees have inquired, a code has been digested, Bills have been proposed—a succession of dissolving views before Parliament and the country. But I am bound in common justice to say that much has thus been done in preparing and providing, in separating and classifying, most valuable and available materials, which are now ready for the builder's use. A great work had been done by the late Sir Robert Peel in reducing to order and system the chaos of criminal law. His Acts for England were followed up by corresponding Acts for Ireland, with very few variations; and the criminal statutes of a later period are generally imperial. It is of the very highest policy to assimilate the law of England and Ireland to the utmost practicable extent; and as the legal scavenger and the rubbish-cart must be

freely employed in cleansing and clearing the statute-book, for Ireland as for England, it is not too much to expect that any plan of consolidation and amendment which Parliament may adopt and the country may sanction, will remove all the rubbish, and make use of the best materials which can be selected from the statutes of either country, in order to construct an imperial code for the common benefit of both. In thus dealing at this time with the reconstruction of the code of criminal law, we may test the practicability of further assimilation. It may become a question for Parliament to decide, by resolution or otherwise, authoritatively, in what form the work should be done to render it finally acceptable. Some earnestly contend for repeating in the new law the very words of the old enactments, with all the jargon of the Old Bailey. Others more rationally suggest that a new code should be framed in the most exact but plain language, what was doubtful should be made clear, what was defective should be supplied, and for this purpose we should turn to account authentic judicial decisions. In a word, that we should avail ourselves of all the light and all the information within our power to command, and use our best efforts to make the law consistent with the present state of opinion, and to have it expressed with grammatical accuracy, and as a model for the consolidation and amendment of the entire of our statute law. I must say I am entirely of this opinion, and am prepared to defend and to enforce it whenever called upon to do so.

It is high time to be delivered from the bondage of such mischievous, because unjust, classification of crime as felony and misdemeanour, and all the kindred verbiage. Why should we have the most important differences in the procedure for the trial of a felony which is in substance a misdemeanour, and of a misdemeanour which is in substance a felony, if by these terms we designate the essence of the crime?

And if we do not, why is the obsolete and unjust distinction to be perpetuated? Instead of these, let us have a sound and rational classification of punishments; and here we are required to make up our minds upon a very solemn question which now awaits decision, whether we are to retain on the statute-book, as a punishment of any crime under the degree of treason, by which human life is not murderously taken away, whether we are to continue in this class of cases the punishment of death? I cannot touch upon this topic without a feeling of deep thankfulness to God that so much of our law that was once written in blood is in the course of being gradually replaced by a humane reformatory system. There is, perhaps, no point of comparison between the past and the present more interesting to those who mark with gladness the progress of society than the change in the moral sense, the public conscience, in reference to the punishment of death. The sacredness of human life is of the essence of religious truth. The unnecessary retention of the punishment of death for any one class of crime is not only a foul stain upon the statute-book, it is, constructively at least, a capital offence in the Legislature itself. There may be—I believe there is—a voice within, which in the case of a clear conviction for wilful murder ratifies the sentence of the law, and recognises expiation in the capital punishment. But where life has not been taken, where the intent has been frustrated by providential interference, it is an intimation to us that human justice is to be so far moderated by an overruling Providence, and we should follow the merciful suggestion. I believe that such a view, if adopted in our law, would be consistent with the profound convictions of the wisest and best of our people, conducive to public morality, and expressive of the attainment of another stage in the march of civilisation.

If, then, this question of classifying punishment were decided, and the appropriate class allocated to each specified crime, and if the work of consolidation and amendment should embody the conclusions of Parliament on the classification of crime and punishment, and the new law be framed after the manner I have already suggested, I do not believe that the apprehension would be realised which some entertain, that the controversy on the new phraseology would in effect defeat the project. I think this is a libel on the Legislature, and I would add, that if this limited project could not be thus completed, I should altogether despair of any general assimilation of the law of England and Ireland, and of any amendment of the statute law of either country that would satisfy public expectation, or be in any sense worthy of the occasion. But I am not disposed to take a desponding view of a work which has become national. We have had of late years a very great improvement wisely though tardily effected in the procedure of the superior courts of law and equity. It is doubtless easier and safer to remodel the remedies which a system of laws admits than to interfere with the rights which it confers. This species of reform comes into speedy and general operation without disturbance or confusion. It is about fifteen years ago, when I was engaged in arguing a case at the bar of the House of Lords, and in speaking of a decision of a very eminent lawyer, then Lord Chancellor of Ireland, I said it was made in the hurry of the Court of Chancery. Lord Brougham replied, 'We never talk of the speed of a broad-wheeled waggon.' At present, how great is the change which has been wrought! Properties which, under the old system, must have been devoured by the delay and the expense of a cumbrous, stall-fed system, may now be administered without any unreasonable delay and at a moderate cost, and it is well that this most beneficial change

has been set on foot. It is not as yet matured as I could wish it to be, for I confess I heartily desire to see the High Court of Chancery worthy of being regarded as the inner shrine of the sacred temple of public justice, and not the byword for costly, vexatious, and ruinous litigation. The blind idolatry of technical procedure, the false worship of our superior courts, roused that impatient and indignant zeal which smashed the ancient tables of the law, but this has ended in the destruction of the idols and the renovation of our judicial system.

We are at present dealing in each country with an improved but distinct system of procedure. That such a distinction should be permanent cannot be rationally contended. I look forward, therefore, with hope that at an early day we may frankly compare notes and construct one system in which we may henceforward have a common interest, and which I trust may soon be watched over by a department common to both countries. Much has been done, much is under consideration, but the work is great, and we must not expect to be able to sow with one hand and reap with the other. There is one department [said Napier, alluding to a subject which still engages the attention of law reformers] which, of itself, might well claim the undivided attention of the most diligent and thoughtful, I mean the lunacy and minor department of the Court of Chancery. Whether any man should be allowed to have a private asylum for making money by the custody and maintenance of lunatics, where, generally speaking, his interest is not on the side of duty; where the continuance, not the cure, of the afflicted and helpless being under his charge, is for his pecuniary profit; where inspection cannot sufficiently secure the parental care which the State owes to those who cannot be intrusted with their personal liberty; where the withdrawal of a licence may rebuke the

offender, but cannot provide a remedy for the unhappy victims of the offence; whether it is not the responsible duty of the State to interpose its authority where private interest is not only inefficient but adverse; and whether in every case where personal liberty is interfered with there should not be the means for promptly bringing the matter under the notice of responsible authority, and making adequate provision for future custody and treatment (if necessary) in a public institution; these are grave questions—well worthy of the deliberate attention of this association.

After a few remarks upon a subject that he had always advocated, the necessity of a special and fitting education for the young man called to the bar, Napier thus concluded:—

It is not, then, without reason that jurisprudence has been placed at the head of the sections of this association. Why should not it also have a separate and principal department of administration? How otherwise can we collect, and record, and make timely use of the practical suggestions which come from those who are engaged in working the laws? How can we bring public opinion steadily to bear on judicial procedure without regular judicial statistics? How is our code of judicial decisions to be maintained as part of a binding system of law, if these decisions be not authenticated, reported by responsible officers, and published under responsible authority? The suit between A. B. and C. D. involves a decision in which the public is a party deeply interested. But there is no public provision made for an authentic report of such a decision, or that it should be dealt with otherwise than as the private litigant, the casual, perhaps incompetent

reporter, or the speculating publisher may secure. If there were a department of council with the Chancellor at its head, and under this a Secretary of the Affairs of Justice, with a seat in the House of Commons, and a staff sufficient to enable this department to supervise the administration of public justice in the United Kingdom, with a view to the amendment of the law and the exigencies of public justice, there would be, to use the words of the late Lord Langdale, a very busy and most valuable department. And if the Legislature might require the occasional assistance of such a department in aid of current legislation, it might be given without in any degree interfering with the constitutional freedom and accustomed privilege of any member of either House of Parliament. Nor is there a session in which examples of imperfect or erroneous enactments could not be found to prove the need of some such protector of the public, who suffer frequent injustice under the present system.

I am not disposed to indulge in any visionary expectation of a perfect system of laws, or that we can by any contrivance secure absolute purity of administration. 'Human institutions,' says South, 'cannot wholly be constructed on principles of science, which is proper to immutable objects. In the government of the visible world the Supreme Wisdom itself submits to be the Author of the better, not of the best, but of the best possible in the subsisting relations. Much more must all human legislators give way to many evils rather than encourage the discontent that would lead to worse remedies.' But the use of timely remedies is a standing duty. The continued neglect of functional irregularity leads to chronic disease and organic disorder. All analogy and all experience, from the pruning of the tree to the repair of the building, teach us that the conservative spirit is necessarily remedial, and that the demands of time cannot safely be

postponed. 'Time,' says Sir Matthew Hale, 'is the wisest thing under heaven. He that thinks that a State can be exactly steered by the same laws in every kind as it was two hundred or three hundred years since may as well imagine that the clothes that fitted him when he was a child should serve him when he was grown up as a man. The matter changeth the custom, the contracts, the commerce; the dispositions, education, and tempers of men and societies change in a long tract of time; and so must their laws in some measure be changed, or they will not be useful for their state and condition.' The living law must not be left to perish in the arms of the dead. Law is a rule of present obligation, and the statute-book should therefore be cleared of all that is not now proper to bind the free citizens of this generation. Some laws have been but the scaffolding of our social system; the removal of such cannot weaken the foundation or shake the superstructure. Others have lost the sanction of public opinion, and a law which cannot be enforced without offending public feeling ought not to be retained. Again, there are laws which are now happily superseded by the improved intelligence and moral convictions of society; laws which may, perhaps, have aggravated the evils which they were called on to remove, for these could only yield to higher influences.

Moral evils properly require moral remedies. Thus is there a great work of reconstruction, in which we are called upon to proceed as wise master-builders, with the caution of men who profess to honour jurisprudence as the chief department of social science. Ignorance or empiricism, with rude or unskilled hand, might level in an hour the work of a century; but we seek for sound experience, the test of free discussion, the approval of practical wisdom. It is in this spirit, thus led by the hand, with an honest desire of keeping pace with the progress of enlightened opinion, that I have advocated,

and still advise, the formation of a department of jurisprudence like that of education.

> Learn to be just, just through impartial law,
> Far as ye may, erect and equalise;
> And what ye cannot reach by statutes, draw
> Each from his fountain of self-sacrifice.

This is the work of social science, a work eminently Christian. The Divine Founder of our pure and practical religion, the greatest yet the lowliest of beings, was the gentlest and the kindest and the best, and they who would follow Him need not turn from the path which leads to the social welfare of others, nor reject the agencies which we here seek to invigorate and improve. This co-operation in duty may help to soften the severity, to subdue the pride of opinion, and nourish the spirit which should ever urge us to love our neighbour as ourself. In this season of prosperity, in this time of peace, how thankful am I to have the privilege of uniting with the elevated peer, the enlightened commoner, the sagacious statesman, and the thoughtful scholar, upon common ground for the common weal, under the blessing of God publicly and solemnly invoked.

CHAPTER VI.

LEISURE.

Silken rest
Tie all my cares up.—BEAUMONT and FLETCHER,
Four Plays in One, sc. 3.

Absence of occupation is not rest.
COWPER, *Retirement*.

UPON the fall of the Government of Lord Derby in the June of 1859, owing to the failure of its promised measure of reform, and the direction of its foreign policy, which, it was said, unduly favoured Austria, Napier once more, after a brief reign of power, was out of office. He resigned the Seals, but as a proof of the estimation in which his judicial ability was held, an attempt was shortly afterwards made to transfer him from Dublin to London. With the full approval of Lord Palmerston, who was again Prime Minister, and of Lord Campbell, then Lord Chancellor of Great Britain, Napier was requested to consent to have his name placed on the Judicial Committee of the Privy Council. No sooner had he assented to this very flattering offer when it was unexpectedly discovered

that the Act of Parliament under which the Judicial Committee was constituted had not provided for the admission of ex-judges of Ireland or Scotland, confining the privilege only to those of England. Napier thereupon had to accept the will for the deed, and bear his disappointment with all the resignation he could summon.

Lord Campbell wrote to him as follows:—

Stratheden House, June 28, 1860.

My dear ex-Chancellor,—I am sorry to say that unforeseen difficulties have arisen in accomplishing the wish to introduce you into the Judicial Committee. I need not say, that these do not arise from any doubt in any quarter of your high qualifications. *Cum talis sis utinam noster esses!* But an obstacle presents itself which had not been attended to when the proposal was first considered, that according to the existing law the Crown has no power to make such an appointment; and there is great reluctance to interfere by legislation with the constitution of this tribunal. If one change were to be made there are various others which have been suggested and would be pressed in Parliament; and as the business before the Judicial Committee continues to be done in a manner very satisfactory to the public, the safer course seems to be not at present in any degree to tamper with it.

I remain,

Yours very truly,

CAMPBELL.

The Right Honourable Joseph Napier.

Nor was this the only testimonial to the great

talents Napier had displayed during his brief tenure of office upon the bench. Shortly after his surrender of the Seals, Lord Justice Blackburne wrote to him congratulating him in the highest terms upon the marked ability he had displayed in the performance of his duties as Chancellor in the Court of Appeal. From his old and valued friend Lord Eglinton he received the following letter:

Viceregal Lodge, July 1, 1859.

My dear Sir,—I hope to have the pleasure of seeing you to-morrow and expressing to you how entirely I reciprocate your feelings on the termination of our official connection.

I think I am justified in saying that no two people could have pulled together with more perfect harmony than ourselves, and I have to thank you not only for the valuable assistance which your talents and experience enabled you to give me, but for the private confidence and total absence of formality and red-tapeism with which you have treated me.

I trust that though our official association is at an end our private friendship will remain during our lives, and you must also allow me to express my hope that your retirement from public life is only temporary.

Believe me,

Very truly yours,

EGLINTON AND WINTON.

Right Honourable J. Napier.

The judgments of Napier during the period of his holding the Seals will be found in volumes eight and nine of the Irish Chancery Reports. A selection

from his decisions has also been published in one volume by a warm friend and admirer, Mr. W. B. Drury, dedicated to Napier's old master Mr. Justice Patteson. 'There will be found in this volume,' writes Mr. Drury in his preface, 'carefully considered decisions of the Lord Chancellor on questions of trust, fraud, the Statute of Limitations, and other general heads of equity. Most of the judgments have been written—all have been revised by his own hand.'

In the last case heard by Napier—it was the case of Walker *v.* Taylor, and heard on June 16, 1859—the Lord Chancellor having delivered judgment, thus concluded —'And here, for the present, I close the book, the great volume of Equity. To have been enrolled as a commentator—associated with the wise, the learned, and the good—

The noble living and the noble dead,'

might more than satisfy the highest professional ambition. I have enjoyed, moreover, while here presiding, what to me at least has been a source of unmixed gratification—the household happiness may I call it?—for which I am mainly indebted to the kindness of my brethren of the bar and the unceasing attention of the officers of the court. To both I am grateful. For all, I am deeply thankful to God.'

The work when published was presented to several persons of distinction.

I have just received (writes Mr. Justice Patteson to the editor, April 30, 1860) your volume of Cases before the Lord Chancellor Napier, and am very much obliged to you for it. I shall read them with great interest, and am proud to have my name associated by the dedication with so eminent a man in so kind a manner.

To Mr. Drury Lord Cranworth also thus wrote (April 23):

I have to thank you for a copy of your volume of Cases decided in the time of Lord Chancellor Napier which has just reached me. The high legal attainments of the late Lord Chancellor afford an ample guarantee that this work will be one of great usefulness, and the profession and the public are much indebted to you for having made the collection.

In acknowledging the gift Lord Chelmsford at the same time took the opportunity of expressing his regret that Napier was still idle.

Your letter (he writes to him, April 25), with the accompanying volume of your decisions, ought to have been acknowledged before, and would have been if I had not been very busy and unable to find a leisure moment. I have one advantage over you in our common non-official existence, that I have still some occupation and that not of an unpleasant character. The appeals in the House of Lords and attendance in the Privy Council are almost play-work after the labour first of the bar and then of the Great Seal. But I

hope the day is not far distant when you may be summoned into active life again; for of your short career on the Irish woolsack I have heard all sorts of commendation, and it is to be regretted that your services to your country while the vigour of your intellect continues should be suspended even for a day. I am perfectly contented with my present condition, but I should like to see you again where you ought to be.

I am very much obliged to you (writes Lord Wensleydale to Napier) for your kindness in sending me the book of Cases *temp.* Napier, from which I have no doubt we shall obtain as much profit as from any single volume of reports that is to be found anywhere, knowing the comprehensive and accurate knowledge and power of elucidation possessed by the eminent judge whose decisions are reported.

One more letter closes this list of congratulations.

Few things (writes Sir John Romilly, then Master of the Rolls and afterwards Lord Romilly, May 24) have given me more pleasure than the volume you have sent to me and the note accompanying it. I accept it as a most grateful remembrance of the time when we used to see much more of each other than has been possible of late years, and when though we were frequently opposed to each other, every circumstance that occurred increased my estimation of your great knowledge and abilities and my great regard for yourself personally.

Laudari a laudato is an acknowledged test.

Shortly after the overthrow of the Conservative party the ex-Chancellor, as a pleasant relief from his past judicial labours, travelled on the Continent, spending the autumn and winter months of 1860 and

the earlier part of 1861 in the Tyrol and Italy. He revelled in the change and keenly enjoyed for a time the beauties of the scenery unfolded before his gaze, as his letters home amply testify. Italy at that date, thanks to the interested aid of France and the policy of Count Cavour, was seeking to shake off the hated despotism of Austria and the vicious rule of the temporal power, and to transform herself from 'a geographical expression' into a free and united kingdom. With her struggles for emancipation Napier keenly sympathised. He disapproved of the course Lord John Russell had adopted in addressing a despatch to Sir James Hudson, our minister at Turin, strongly deprecating any attack by Sardinia upon Venetia, as such aggression, wrote the Foreign Secretary, might affect our interests in the Adriatic. Napier preferred the policy of the Conservative party, which aimed at settling the Italian question on the basis of the treaty of Villafranca.

I have been endeavouring (he writes home) to understand the realities of Italy, politically and religiously, so as to judge of its future; but I have not made up my judgment, nor will I until I visit Turin and have had a good conference with Sir James Hudson. At present I am well satisfied with the policy of our Derby Cabinet, which I think was wise and sound.

He again alludes to the subject in another letter.

I met Lever [then Consul at Spezzia], who was most agreeable, and yesterday he made up a little dinner-party for me. He is very intelligent and very kind. Italy is a great problem, but my conviction is it will grow into a great country. Religious freedom is now so largely enjoyed that it cannot be recalled, and the Papacy is so vulgarised and exposed that its prestige is gone. The great difficulty is how to amalgamate the several divisions of the country and reconcile their varieties and conflicting desires. Lord John Russell's letter was, as I think, most unwisely worded, and is open to grave censure. The intervention of Sardinia is to be judged in the *concrete*; not on abstract principles, but in reference to all the circumstances as a whole, to be dealt with according to the dictates of the public conscience. A free people, therefore, could not but sympathise with the deliverance of a people under the oppression of a bad government. . . . It seems on all sides assumed that Rome will soon be transferred *in temporalibus* to Piedmont, and that this is the almost universal desire of the people. The fact is the old system is effete and rotten, but what is to replace it ultimately is the problem, and the course of events has brought Piedmont into the van, though I think it has moved with an ambitious and accelerated pace which will meet with the repulse of reaction, though it may not lead back to the old despotism. In the confusion which is yet probable, France looks to profit; Austria shoved out, the Papacy pent in the Vatican, Sardinia dependent upon the material aid of French bayonets, and the sympathies of the Latin race and the Catholic religion giving to the intervention of France the influence of the guiding power. I fear our Russell policy is neither worthy of England nor wise in our generation. We will be estranged from the old allies of England, and we make no new friends who can be of any value to us in our European relations.

The 'Russell policy' pretended to allow Italy to choose her own rulers and to settle her own affairs as she thought best; in reality it was one of fussy interference, irritating Austria, Sardinia, and Naples, and criticising but not checking the ambition of Napoleon.

Napier was no omnivorous sightseer. Like many men whose artistic tastes were not particularly pronounced, and whose life had been absorbed by studies of a not very æsthetic character, he was content with seeing a little and seeing that quickly. He enjoyed the story and colouring of a famous picture, or the architecture of a celebrated church, but not of a thousand pictures or a hundred churches. 'Of the many,' writes his daughter, 'he wearied, the few he loved to rest upon.' When eye and brain were tired, inspection in his opinion was only another word for boredom.

It seems to me absurd (he comments, something after the fashion of the travelling Philistine) to talk of the need of spending months to see Rome. Ancient Rome is one thing, papal Rome and picture galleries are another. Any one of energy and observation, in good health and not a devotee, may get his appetite satisfied in a fortnight and his taste gratified in a month, but to be poking and lounging about churches, and 'Holy Families,' and images and statues, and pictures and old inscriptions and broken sculpture, and hearing lying legends and myths, and seeing the tomfooleries which go

forward in one cycle of stupid servility—does seem to me to be a mere wasting of human life, and unworthy of manly minds.

Severe as was the evangelicism of the man, in the following remarks his sense of toleration, and the absence of the usual prejudices which criticism upon Rome so often inspires, are commendably visible.

The ecclesiastics I have met are very courteous to me, and I find nothing in the place which justifies the bigotry by which it is often assailed as if under an external blight. The people seem quiet, orderly, comfortable; excellent shops, great social intercourse, a most convenient Protestant church; and I have not heard any bigotry or intolerance broached in any quarter, or any uncharitable allusion to any form of Protestantism. Still the system of government is essentially wrong, and doubtless in its inner working inflicts many a secret injury, as it suppresses all the aspirations of freedom and the reasonable hopes of human progress.

A visit to the catacombs calls forth this reflection:

The Appian Way, with its lines of sepulchres and monuments here, is one of the most impressive of all the sights after the Colosseum and the Forum. I have been in two sets of the catacombs. I think they show clearly how simple was the faith of the early Christians, but there is great obscurity over their history. It is wonderful how obscure all the period of these early struggles is, and how it is buried under legends and lies without end. It is refreshing to turn to the clear page of the Scriptures—to see Paul and Peter in the Acts

and their Epistles, rather than to hear of wretched traditions which have been trumped up here about both.

To most men the chief charm of a visit to Rome is the inspection of the splendid picture galleries in the different palaces. Napier, however, openly confesses that he cannot screw himself up to go picture-hunting.

I do not enjoy (he writes) a mass of pictures heaped in rooms or crowded together. I like the few and the excellent, and leave the others to the tourists who abound and muddle away months in this lounge of itinerant life.

After remarking upon 'the few and the excellent pictures' which specially impressed him, he thus speaks of the portrait of the Cenci:

That of Beatrice Cenci, in the Barberini Palace, is the most truly touching portrait I ever beheld. I could not look on it, I cannot think on it, without strong and deep emotion.

I thought 'The Dismissal of Hagar,' which I saw at Milan, was the perfection of the portraiture of female sorrow, but this of Guido far exceeds it; it is a grief too deep and burning for tears, it is hallowed by its intensity and subdued stillness. A face of loveliness, innocence, tenderness, helplessness, bereavement, you feel as if you could give all the sympathies of your inmost soul to solace this 'child of misfortune' and weep with her tear for tear, if tears could be shed by eyes sanctified with sorrow and the sustained agony of her affliction.

One incident (writes Mrs. Gardiner) occurred during this winter sojourn in Rome which made an indelible impression

on his mind. It was a visit to Mrs. Elizabeth Barrett Browning, in which I accompanied him. Of her he speaks:

> A being breathing thoughtful breath,
> A traveller between life and death,
> A perfect woman nobly planned
> To warn, to comfort, and command,

She lay weak and wasted in the subdued softness of a Roman sunset; her eyes sparkling with genius and her voice trembling with emotion as she pleaded the cause of her loved Italy. In words of wisdom she pointed to the moral aspect of events then passing; she expressed her abiding faith in the wisdom and goodness of God, and her undying hope of human progress. Nor can I forget the lofty spirit in which she ended with reflections on the responsibilities of public men and the sacred rights of humanity committed to their charge.

> Daughter of genius! bright shall be
> Thy morrow of eternity!

At the end of some six months Napier prepared to return to England, rejoicing, like most active men, to whom complete leisure becomes soon irksome, 'to head homeward.'

We now come to the one period in the life of Napier when he was accused of great inconsistency, and for a time had to encounter the bitterness of friendship turned into animosity. Of all virtues consistency is the least to be appreciated in the pursuit of politics, for where there is no fixity of creed or purpose, as in politics, consistency has only a relative value. A politician has to march with the

times, and he is the wisest who, even at the expense of personal sympathies, endeavours to bring his policy into harmony with a condition of things which opposition cannot alter and may be productive of evil. Consistency in a politician is often synonymous with a short-sighted obstinacy and an inability to appreciate and follow the ever-varying spirit of progress. The best and truest politician is not he who never changes, but he who only changes when opinions formerly held can only be preserved at the expense of the public good.

A statesman (said Mr. Disraeli once when addressing his constituents) is the creature of his age, the child of circumstance, the creation of his times. A statesman is essentially a practical character, and when he is called upon to take office he is not to inquire what his opinions might or might not have been upon this or that subject—he is only to ascertain the needful and the beneficial, and the most feasible manner in which affairs are to be carried on. I laugh, therefore, at the objections against a man that at a former period of his career he advocated a policy different to his present one; all I ask to ascertain is whether his present policy be just, necessary, expedient; whether at the present moment he is prepared to serve the country according to its present necessities.

Napier was now to pursue this line of conduct. We have seen him in former years, both in and out of the House of Commons, stoutly opposing any attempt to exclude the perusal of the Scriptures from

the Protestant schools in Ireland. It had been, and still was, his earnest wish, that the Bible should be studied by Protestants in such schools without depriving them of the benefits of the educational grant. He now saw that the gratification of this desire was hopeless, and that it was incumbent upon him to discard a principle he had been amongst the most prominent in maintaining. In this change of opinion he was greatly influenced by the conduct and suggestions of the Archbishop of Armagh. The Roman Catholic hierarchy in Ireland had, in the autumn of 1859, demanded a system of separate grants, as in England. This request was publicly deprecated by the Lord Primate on behalf of the Church Education Society, and was refused by the Government. The proposal of the president of the society for a separate arrangement was also refused. At this time the Wesleyan Connexion, after a full conference in London, had agreed to withdraw their interdict against the national system in Ireland, and to leave their brethren free for the future to accept aid from the Commissioners in all cases in which it might seem fit to them so to do. Why, it was now asked, should the Irish clergy not have the same liberty of action? The Archbishop wrote the following letter to the honorary secretaries of the Church Education Society:

February 21, 1860.

My dear Sirs,—The answer which Mr. Cardwell has returned on the part of her Majesty's Government to the letter addressed to him by desire of the presidents of the Church Education Society, appears to me to extinguish all hope of a modification of the fundamental rules of the national system, which would enable the schools conducted on the principles of the society to receive aid from the State. It is evident that the national system, which was at first introduced as a concession to Roman Catholics, is regarded now as a barrier against the encroachments and extravagant demands of the Ultramontane party, and that with this view it will be maintained in its integrity. I, therefore, feel compelled to relinquish the expectation of its rules being altered, or of assistance being granted, either through the National Board or any other channel, to the society's schools.

If all, or nearly all, the schools could be maintained in an efficient state by means of their own resources, or with the help of the subscriptions given to the central and diocesan societies, the object which was aimed at in establishing them would be accomplished, and we might proceed in our course without anxiety. But this is not the case. There are many of the schools of the society in a languishing condition, unable, for the want of funds, to employ properly qualified teachers, and to provide a sufficient stock of books and other requisites; and as a consequence of this, the scholars are not obtaining such an education as they ought to receive.

I, therefore, have deemed it to be my duty to address letters to the clergymen who are patrons of Church Education Schools in my dioceses of Armagh and Clogher, offering them my advice respecting the course which I conceive they ought to pursue. I enclose copies of my letters, by which you will perceive that I recommend them, wherever the funds belong-

ing to a school are sufficient for its maintenance in an efficient state, to continue to conduct it as heretofore on the principles of the society; and wherever the funds are insufficient for this purpose, but a hope exists that by renewed exertions they may be increased, I recommend the making of every effort, and that promptly, to bring about this desirable object, and thereby invigorate the schools which are now falling into decay. But if no hope exists of raising the funds requisite for putting a school into proper working order in a neighbourhood where a school is greatly needed, then I recommend that aid should be sought from the Commissioners of National Education, *rather than allow the youthful members of the Church to grow up in a state of ignorance, or, as their only alternative, resort to national schools under the influence of patrons hostile to their faith.*

The pressing necessity of the case would, in my judgment, justify a clergyman who has only such a choice of evils before him in connecting his school with the National Board, notwithstanding the objectionable rule of the system in reference to the reading of the Scriptures by Roman Catholic children.

No alteration, I conceive, ought to be made in the fundamental laws of the Church Education Society. None but schools conducted on its own principles would remain in connection with it, and, if my advice be followed, none but efficient schools would be included in the number. . . .

In conclusion, I repeat to you what I have said to my clergy, that, 'if I were merely to consult my own ease, I should, at my advanced time of life, have allowed things to remain as they are, and have left this long agitated question to settle itself after my removal from the world. But if I were to do so, and to shrink from making this effort to place the education of the poor in my diocese in a better condition

than it has been of late years, I feel that I should not be acting for the best interests of the Church over which I have been appointed to preside.'

I remain, my dear Sirs,
With every sentiment of respect and regard,
JOHN G. ARMAGH.

A meeting of the Church Education Committee was summoned to consider the suggestions of his Grace, at which Napier, who was a vice-president of the society, was present.

On this occasion (writes Napier [1]) I was officially informed of the actual condition of a large proportion (exceeding one-third) of the Church schools. In these the masters were incompetent; without training; the certain salaries generally under 10*l.*, and in some cases under 5*l.* yearly; books and school requisites but scantily supplied. It was further stated that there were districts in large parishes containing many Protestants, *where there was no school at all*, and no means of having one, except with State assistance. This condition of the schools was for the first time brought under my notice, and when taken in connection with the other facts to which I have adverted, I could not but listen with anxious and earnest attention to the advice of the venerable Primate. The crisis was eventful. I cordially approved of the following resolution, which was carried at a very full meeting, without a division:

'Resolved,—That this Committee receive the announcement of his Grace the Lord Primate with respectful deference

[1] *The Education Question. Thoughts on the Present Crisis*, by the Right Hon. Joseph Napier.

due to any communication coming from such a quarter. That they are thankful to be assured of his Grace's cordial adherence to the principles of this society, and of his determination to continue to it his munificent support. That they heartily concur in his Grace's advice to the patrons of such Church Education Schools as are languishing from want of support, to make prompt exertions to raise them from their depressed condition. That this Committee, so far as they have funds at their disposal, will co-operate with such patrons in order to put their schools in an efficient state, *and will, to the utmost of their power, assist all patrons who may conscientiously desire to continue their connection with this Society under all circumstances.* That, whatever diminution may take place in the number of schools connected with the society, the Committee feel it to be their duty, to the utmost of their ability, to encourage and foster those Church schools which remain, by maintaining and increasing the efficiency of the training institution, by a regular supply of school requisites, and by other means within their reach.'

The words in italics were inserted at Napier's suggestion.

In estimating the advice given by the Primate (writes Napier) it is important to bear in mind the condition of things under which it was offered for the guidance of his clergy. *The educational demands of the children of the Church could not be met adequately by such of the Church schools as were impoverished and inefficient*; the controversy of the Church with the State was confessedly closed; denominational aid was, on the part of the Church, repudiated, and the mixed system of the State, on the principles of civil equality and parental authority, was recognised as a State

institution. The question then for the practical wisdom of the Primate was this, *whether the State bounty, offered on equal terms for the education of the children generally, should be given up to other communions altogether, and the clergy of the Church should thereafter withdraw from any interference in the State education*, at a time when the Church schools did not, nor could, in many districts, provide for the children of the Church such an education as they had a right to expect, and such as the State had admitted their civil right to receive. The distinction is most material which the Primate has drawn between *the genuine and efficient Church school*, which he advises to be kept up as heretofore, and the impoverished and inefficient Church school, without the means of prompt and permanent improvement, which he advises to be converted into an efficient State school, to be maintained under the incumbent as the patron. It is a fallacy to apply to the latter class the reasoning which is properly applicable to the former. The patron of the former cannot be required to *give gratuitous* education to the children upon any principles, nor according to any rules but those which he prescribes. But in the other case it is simply because the school is so impoverished that the patron *has not the means of giving gratuitous education*, that he is advised to *accept* and *administer the bounty of the State*, as a trustee for the children, and thus secure for those of his own communion at least, the benefits which might not be realised for them to the same extent, without his intervention.

The question therefore resolved itself into this. If certain of the Church schools, owing to their want of funds, were unable to educate the children entrusted to them, was it not wiser, rather than en

courage a system of defective education, to appeal for aid to the Commissioners of National Education? Napier, now that he saw no alternative between a bad education or no education at all without State aid, and a good education under certain restrictions, with State aid, was in favour of the latter system. There were others—a very numerous party—however, who thought differently. With these it was considered that to accept aid from the State under any circumstances, however pressing, would be a violation of their duty towards God, when such aid could only be obtained by a submission to the distinctive rule of the national system. 'No educational advantages,' said this section, 'could compensate for any restrictions to be put upon a free perusal of the Bible; better no school at all than a genuine national school. Whether the school be impoverished and inefficient, or whether it be famished and closed—whether it be dying or dead—take no aid from the Board under any circumstances, touch not the unclean thing.'

So argued those who considered that the acceptance of State assistance upon certain conditions was a surrender of the principles on which the Church Education Society had been founded and supported. Napier thought differently, and had the courage of his opinions. He had laboured for many years most earn-

estly to have the clause restricting the perusal of the Bible in national schools rescinded, and for the unconditional participation of the Church schools in the State grant. His pleading had, however, been in vain, and now when the question had to be decided between a bad education and a good sectarian education, he deemed it his duty to vote in favour of the latter. If the Church schools could be maintained so as to meet the educational exigencies of their pupils, nothing could be better than the teaching they supplied; but if such schools could not offer suitable education, then he cordially agreed with the Primate, and it thus became their duty to submit to the national system.

Let us not any longer judge our brethren (writes Napier in conclusion). Let every man be free to form his own judgment as to the best means of doing the most good, according to the circumstances in which he may be placed. He cannot lawfully sacrifice a principle, but he may not be able to apply it without some limitation. The duties of life, after all, are not mere abstractions; they are often complicated—they are always practical. Principles cannot be changed in their essence by facts, but the realities of life not only may, but must limit and modify the application of principles. To what extent this is to be allowed is, doubtless, often very difficult, but not the less our duty to determine, and this may be a part, and a responsible part, of that moral discipline for which our life on earth is manifestly intended. To do *the* best is absolute perfection, the highest privilege,

the free action of pure principle. To do *our* best—the best *we can*—is relative, and in its very nature and essence involves the limitation of principle, which must be practically applied by conscience and common sense in the daily conduct of real life.

> The best of what we do
> And are, just God, forgive!

It is *expedient* that we should always do the best we can, it is right that we should always desire to do better; but this feeling is profaned when it is made the pretext for our declining to do what we can because we could not do all that we would. All duty is expedient, but the word 'expedient' is not to be desecrated by a mere clap-trap use which is too often its fate.

For this, what his former friends termed 'apostasy,' Napier was vehemently assailed on all sides. In the bitter condemnation which was now passed upon him there was little of the sweetness of the Christian character visible. Charity was conspicuous by its absence.

Whilst I feel (he writes to his eldest son upon this subject) not less attached to the old friends who stood to me faithfully in my public life, I cannot but thoroughly condemn the sinful violation of the Pauline charity, without which all this cry for the Scriptures is but sounding brass. I am as friendly as ever I was to the parochial schools where they can be efficiently kept up; but if the State schools involve nothing against conscience, and provide what the parochial schools cannot give to the general population, and do not give even to their own children, then I feel it to be a duty

binding on a Christian citizen to make use of this as the best practicable system in those places in which a better is not available. The Irish clergy are now retiring from the State education of the people, and the Church will gradually cease to be the State institution for education. Will it continue to be the State Church either of or for the people educated —educated by the State under Roman Catholic, Presbyterian, and Wesleyan patrons—this seems to me a very vital consideration, which our pugnacious friends, who count me their enemy because I tell them an unpalatable truth, have not yet grappled with.

How sound and well balanced was the course adopted by Napier on this occasion is testified by the following words from one well acquainted—none better—with the whole question:

In ceasing to oppose (writes the Archbishop of Armagh, Feb. 6, 1883, to Mrs. Gardiner, in reply to a request for any letters from her father that might be in his Grace's possession) the national system of education when that opposition was found to be injurious to the youthful Protestants of Ireland, and knowing the effect of throwing them for education into the hands of those who were hostile to our Church, he (Napier) did that which was perfectly right and consistent with the principles he always professed. The late Primate did the same, and it is only to be regretted that the clergy did not at once follow his wise advice and make use of the public funds for the education of their parishioners. Every day we feel the sad inconvenience of having lost the power of educating the youth of our flocks from allowing others to take advantage of us and secure the possession of the schools of the country, and every day goes to justify the wisdom of his conduct.

A few weeks after his return from Rome, Napier, strong in his resolve not to let himself 'rust' for want of official work, delivered an opening address as president, for the second time, of the department of Jurisprudence at the meeting of the Social Science Association which was then being held during the long vacation in the Four Courts, Dublin. Touching the connection between social science and jurisprudence, he says:

Is it not worthy of social science to give a greater efficiency to this system, a greater reverence for the law itself, a higher position for the legal profession? Nor is it a light matter whether this profession should sink to a vulgar level or be raised to a higher elevation. Public justice must have its ministers, and public policy requires that these should be men of cultivated minds. It is not enough to have a supply of rough and ready justice. However useful this lower currency may be, we must seek to maintain a great and goodly system of jurisprudence, under which public order, civil and religious freedom, protection of life and property, may be adequately secured—a system which will nurture advocacy of the highest order and encourage the learning, the wisdom, and the love of justice, which are not less the ornament than the support of judicial authority. The amendment of the law, the increased efficiency of our judicial system, and the elevation of the bar, are not the only benefits to be realised. But here I must halt; I have reached the extreme limits of my own department. I cannot now turn towards the venerable hall of justice where we assemble on this occasion without being reminded that there I learned to reverence the laws

and institutions of my country. I cannot forget the many years of kindly intercourse which I have had with my brethren of the bar and those venerable magistrates who have been gathered to their everlasting rest who have enriched our jurisprudence with the treasures of their sober wisdom, their exact learning, and their chastened experience—Plunket, Bushe, Burton, Smith, Joy, Pennefather.

> The dust of these is Irish earth,
> Whilst with their own they rest;
> And the same land which gave them birth
> Has caught them to her breast.

Their memorials have not perished with them; these are bound up with the moral order of the world. The jurisprudence of every country is connected with the great system of universal justice whose seat is in the bosom of God. The *νόμος* of the Greek, the *suum cuique* of the noble and enlightened jurisprudence of Rome, the justice and mercy of our own, all culminate in a higher law—that divine but simple code of sacred and of social duty on which our gracious Redeemer by His memorable comment has stamped His own image and superscription.

> It sinks the specialities of race and creed
> In the deep sympathy of man with man:
> The highest law is systematic love.

Meetings of the Social Science Association appear to have had a great attraction for Napier, essentially what Carlyle calls 'a many-sided man.' Jurist, classic, mathematician, well read in modern literature, he thoroughly enjoyed, as many a letter before me testifies, the society of the *savants* that assembled at these meetings. We find him attending, and taking

part in the meetings held at London in 1862, at Edinburgh in 1863, at Manchester in 1866, and at Glasgow in 1874. On the occasion of the meeting of the British Association at Oxford in the summer of 1860, rooms had been assigned to Napier in Magdalen, where much to his amusement the porter had put the name of 'Lord' Napier over the door. He was very pleased with his visit, and greatly impressed with a sermon delivered by the present Bishop of London, then the head-master of Rugby.

I have just come (he writes to his wife) from the church, where Mr. Temple (the Master of Rugby) preached. His text was Eccles. i. 17, and the sermon was deeply instructive and most suitable to the occasion and the audience. I met him at dinner yesterday. I dined with the Master of Balliol —a small but very select and agreeable party—Sir David Brewster and one of the foreign *savans*. I had a good deal of conversation with Mr. Temple, and a great deal with Sir David Brewster, who is a very wise and good man. We afterwards went to a reception at the Botanical professor's. To-morrow the degrees are to be given to a select few of the *savans*, and an English prize poem on the death of Franklin and his companions to be recited. It is a great privilege to meet so many able and good men.

A prominent and active member of the Evangelical party, Napier when in London was in much request, not only at the drawing-room conversaziones frequently held by the leaders of his set

to further home or missionary projects, but also as a speaker on the platform at public meetings. Of the different religious societies with which he was connected, none had a stronger claim on his sympathies than the Church Missionary Society, of which he was one of the vice-presidents. He warmly upheld, both by voice and purse, the object it had in view, and his eloquence was never more fervid or persuasive than when pleading the cause of missions to the heathen. We have seen him abused in his own country and by his own brethren for accepting the terms of the State when compelled by necessity in the matter of education in Ireland, let us now hear his noble advocacy—perhaps one of the best speeches he ever delivered—in favour of the admission of the Bible in the Government schools of India. Nor was there any inconsistency in this expression of opinion. It was one thing not to teach the Bible in the Irish State schools, where the State supplemented the efforts of the various sections of the Christian community under a system of secular education, and quite a different matter when they had to deal with a heathen country. It was the occasion of the annual meeting of the Church Missionary Society, held at Exeter Hall, April 30, 1861, that called forth this eloquent protest from Napier. The Earl of Chichester was in the chair, and the subject of this

biography was asked to second the adoption of the report of the society. He thus began:

I remember a few years ago having been very deeply impressed with an answer that was returned by your lordship, in the name of our beloved Queen, to some African chiefs who sent over an address to her Majesty, saying that they had heard of the greatness of England, and desiring to know what were the circumstances of the manufactures and commerce of England, of which they had heard so much, and which had made us so great a country. To this address our Queen returned, through your lordship, this answer, worthy of this great country. She sent them a present of two splendid copies of the Holy Scriptures; and I remember in that answer she told them that it was not England's commerce nor England's manufactures, rich and extensive as they were, that made England great, but that what made England great was the knowledge of salvation through Jesus Christ, and she sent them the Holy Scriptures that they also might learn the knowledge of that great salvation. Would to God such a message were sent in the name of the Queen to India!

Napier then, on the part of the society, proceeded to enter his protest against what he called the religious policy of England in regard to India. That, he said, had been the subject of a long struggle. In the last century, before the time at which the Church Missionary Society came to its birth, India was in that respect neglected. They had at that time what he might call a very cold-blooded Christianity. His native country, Ireland, had not been wanting in men

to advocate the cause of India. It gave first the advocacy of the elevated and enlightened mind of Edmund Burke; it gave also the wisdom of Wellesley and the prowess of Wellington; it gave too the brilliant rhetoric of Sheridan; and England gave to India as its advocate a man who had left behind him a memory to embalm him—William Wilberforce, and he had stereotyped in their legislation the record of their duty to India.[1] They were bound by the very terms of that record to impart to India useful knowledge, moral and religious improvement, and at the same time to uphold the rights of conscience by preserving to the natives of India the free exercise of their own religion. Formerly the charter of the East India Company was renewed at different periods, and they found every time the charter was renewed some advantage was gained to India with reference to religious policy. From time to time various practices were abolished which offended the conscience of the Christian public of England. And so things went on till a more recent period, and now the

[1] In the year 1793 the following resolution was moved by Wilberforce, and unanimously adopted by the House of Commons, in respect of Christianity in India:

'That it is the opinion of this House that it is the peculiar and bounden duty of the Legislature to promote, by all just and prudent means, the interest and happiness of the inhabitants of the British dominions in the East; and that for these ends such measures ought to be adopted as may gradually tend to their advancement in useful knowledge, and to their religious and moral improvement.'

charter had been put an end to, and India was governed directly in the name of the Queen, so that England was more directly responsible to God, who had thus entrusted her with the government of nearly one-fifth of the whole family of man. He who made of one blood the whole family of man, had entrusted to us the great charge of one-fifth of the human race.

How then (asked Napier) does England execute this trust? She is bound to give to India useful knowledge, moral and religious improvement, and at the same time to give freedom of conscience. Now, what is the proposition that I have been asked here to advocate and to address myself especially to? It is that in India, where the parents of the children are willing that they should learn at our State schools and institutions the knowledge of that Christianity which has made England great, this Christian State should give it to them. The State says 'no,' and we say 'yes.' There is the issue. The State says, 'We will give them secular knowledge,' and adds that it shall be exclusively secular. The State has gone one step further; they have put the Bible in the libraries of these institutions, and the scholars are at liberty, *out of school hours*, to go and look at it and ask questions about it. I remember some years ago, when I was a student in Trinity College, Dublin, going down to see Maynooth, and one of the students there, who was evidently desirous of giving me a favourable impression of the place, took me about and showed me everything. We went into the library, and when we were there he pointed my attention to some very fine copies of the Holy Scriptures, the

'Edinburgh Review,' the works of Edmund Burke, and other such books, and I asked the question, 'I suppose you read all these books?' 'Oh no, if we read them we should get an admonition.' 'And if you persevered?' 'Well, then we should be expelled.'

Now I want England to be straightforward. If it be right in England, if it be its duty to God to put the Bible in these libraries, then why do you give an exclusively secular education? Let us give whatever we give honestly. I would not have the Bible coming in like smuggled goods. We are pledged to give moral and religious improvement. Why is the teaching exclusively secular? I remember when I was in Parliament there was no question on which we had so general a concurrence, amounting almost to unanimity of opinion, as the duty of the State to give a religious education.

We are pledged to give the inhabitants of India moral and religious improvement. We cannot make use of their religion because we believe it to be founded on falsehood; we cannot adopt their morality because it is taken from an impure standard. Now observe, we only demand religious instruction *for those who are desirous of having it.* We do not profess to interfere in their religion, that is a matter between them and God. But when we are bound to give them moral and religious improvement, and there are those who are willing to receive it, I ask how is it to be given? If we cannot resort to their religion, and if we will not resort to ours,—if we cannot resort to their standard of morals, and we will not resort to the pure and sublime morality of the Gospel,—how are we to give them moral improvement? If we will not refer to the religion of Christ,—if we will not refer to the pure truths of God's inspired Word,—how are we to give them religious improvement? How are we to carry out our trust, I would ask? I wish to put the case fairly; to state nothing *ex parte*,

not to treat it in the spirit of an advocate, but rather to speak of it in the spirit of a judge. Let me put the case fairly. They say we must be neutral—that is the word. This, they say, is for the benefit of all the people of India, and there is a variety of religions there, different from ours. Well, there is a saying of Lord Bacon's, a very wise one too, 'all colours are alike in the dark.' We must, it is said, be neutral, and not assume the truth of any religion. *Well, but then give Christianity fair play.* Observe here, we are brought into contact with a heathen people. God has placed us there. We cannot retreat from the position. We are responsible to Him. It is by His will that we hold our empire over India, and we have recognised the trust, and we must perform the duty connected with the trust. Well, in India, of course, there are native religions; they are of a very peculiar kind,—ritual, ceremonial, and what you may call external religions. The natives learn these. They have abundant means with regard to their religions; but how are they to learn ours? Is this neutrality? I say, if God gave His inspired Word for the whole human family; if it contains the great truth that man has sinned, and that the Son of God has suffered that sin might be atoned—if He intended that truth to go forth over the whole habitable globe, and that every nation under heaven should know of His everlasting Gospel—if He has made us a Christian State, and brought us into contact with the inhabitants of India, it is our duty to instruct them, to improve their morals, and to ennoble their faith.

Then Napier asked, how was that to be done? If they could not use their religion because it was immoral; if they had the pure, holy, inspired, everlasting, infallible Word of God given to them, and if

there were those who were willing to receive it, why should it not be given? Was the Government some kind of police establishment—a mere system of police management?—was not a great country like England bound by its responsibility to God in reference to that great portion of the human family to act as a Christian State?

It has often struck me as a very singular and remarkable thing with reference to India, that we cannot move a step there without encountering the very objection that is made with regard to the teaching of the Gospel in the schools. Their whole system is founded upon a false science, and you cannot educate them at all without coming in conflict with some of the fundamental dogmas of their religion. By our jurisprudence we have interfered with their customs, which form a part of their religion. In our executive discipline we interfere with 'caste.' In our education, when we teach them scientific truths we necessarily interfere with that which is the very basis of their religion. And thus, if we are undermining and taking away the only faith they have, sweeping it off, and leaving the mind swept and garnished, what is to be the consequence? What can they think of England, what do they think of us, but that we are ashamed of the Gospel?

Hence, proceeded the speaker, their policy was a timid and crooked policy; therefore whatever they did let them do it directly and honestly, and not in a timid, half-hearted way. If they were to have religion taught at all, they must respect conscience.

The Christian religion itself respected conscience. They should let the people of India know that Christianity itself was the greatest security of the rights of conscience, because the weapons of its warfare were not carnal but spiritual, and mighty in the pulling down of strongholds.

I was greatly struck in reading some of the objections that are put forward on this subject. There is a report of one of the inspectors of schools, one who bears a very honoured name, I mean that of Arnold. He is against our giving the Bible in schools, and he says that to allow it to be used in the schools, even for those who are willing to receive it, interferes with what is called this policy of neutrality. Well, I had happened to have made in my note-book, before I heard that objection urged, an extract from the writings of his honoured father. Dr. Arnold, in one of his excellent sermons, so full of simplicity and truth, which he preached at Rugby, dwelt on what he called the realities of Christianity; for it is to be remembered that our religion is a religion of facts. In one of his sermons, after referring to the thousands of persons who had gone through the evidences of our Lord's life, death, and resurrection, piece by piece, as carefully as ever a judge summed up in the most important cause, he says, 'I have been used for many years to study the history of other times, and to examine and weigh the evidence of those who have written about them, and I know of no one fact in the history of mankind which is proved by better and fuller evidence of every sort to the understanding of a fair inquirer than the great sign which God has given us, that Christ died and rose again from the dead.' Now let me ask this question. We say we are bound to teach to India scientific truth. We

are bound to teach history, and to impart to them useful knowledge, to make them acquainted, say, with the history of the Roman Empire, with that of Greece, or of England. This duty we recognise and discharge, with a consciousness of all the consequences to the faith of the natives. Well, here is a history, the history of Christ, His life, His death, His resurrection. Dr. Arnold was accustomed, he says, to examine historical evidence, and he says there is no event in the history of mankind which is proved by better and fuller evidence of every sort to the mind of the fair inquirer. Why then should not that be taught as the greatest and most authentic of historical facts?

He could well understand, argued Napier, the objection when they said they would not interfere with mere theological belief on one side or the other, in mere matters of opinion; but he remembered a conversation he had a very few years ago with a truly good man—and, although he differed from him much in some of his opinions, he believed he was a simple-minded, single-hearted lover of their Lord—he alluded to the late Baron de Bunsen. The Baron said to him, talking of the various disputations of sects, 'Look how many think that all Christianity is controversial, and all controversy is theological; whereas what I look to is common sense, conscience, the Bible, and the example of our Blessed Lord; and *if we could look more at the great things on which many of us agree, and less at those on which we differ*, there would be more of love and less of

controversy.' They spent a deal of their strength at the present day in controversy, and the sceptic took advantage of that. But, here were the great broad facts of Christianity, on which all Christians worthy of the name were agreed. Why were those not to be taught? That was a question to which he wanted an answer to be given.

It so happened, continued Napier, that shortly before he left Parliament, when the India Bill was under discussion, he had paid some attention to this very subject. They were at that time, after the solemn events which had occurred in the year of mutiny, reconsidering their position, and what should be the future of India, and more especially if it could be brought directly under the Queen's Government, and he had intended to have brought that very subject before the House of Commons. However, he was not fortunate enough to catch the eye of the Speaker, and so lost the opportunity, for very shortly after he was promoted to office, and had not since returned to Parliament. Napier thus concluded:

I speak here, my lord, very humbly. I speak in the presence of many of my fathers and elder brethren around me; but I have served a very gracious Master; He has brought me to great honour, and He has comforted me on every side. I have now reached the highest point to which my ambition could have aspired—far beyond what I ever contemplated. I have had the calm of leisure and reflection, I have had my

day of science; I still relish the refreshment of literature; but let me bear the humble testimony that after all there is only one thing worth living for, and that is to love and to serve the Lord Jesus.

My lord, I find in a number of the 'Edinburgh Review' published in 1858, an article on India, which I believe was written by that very able man Sir Charles Trevelyan, and he says in that article that the only principle for carrying on the government of India worthy of England, is to plant the seed of a nobler faith and a better life. The seed is the Word of God. We ask no Government influence to be thrown as a weight in the scale on the side of the Gospel of Christ. We ask that it should be laid before those who are willing to receive it in its own divine simplicity. We remember that in its majestic march it has subdued the pride and the subtlety of the Greek, the sensuality of ancient Rome, and the idolatries of the barbarian invader. It has been and always will be aggressive, just as the light of heaven is aggressive. It scatters before it cloud and shadow, it dissipates and dispels the gloom of darkness. It has reached our own shores. The light of the Sun of Righteousness has shone on this land. It has melted the Greenlander in his eternal ice. In our own days it has subdued the cannibalism of Fiji and New Zealand. Dr. Livingstone relates a conversation he had with an African chief, and says that when he told him of some of the great truths of the Gospel, he wept, and said, 'Is it possible that England should have kept all this back from us?' And I observe in that interesting work written by Mr. Oliphant, on Japan, he says, some there also wept when they heard the glad message, and wondered that England should have been in possession of these mighty truths and did not communicate them.

Oh, let us take courage, and let us follow no longer this

timid and truckling policy! Let us be honest with India; let us tell her there is a way of improving her morals by referring them to the pure standard of the Gospel, and that there is a way of improving her religion by referring her to the inspired Word of God. . . . God has made England great; He has given her extensive possessions; He has given her India; He has given her rich manufactures, wealth, wisdom; but there is a voice that once spoke to Peter, 'Lovest thou me more than these?' 'Feed my lambs; feed my sheep.' 'Freely ye have received; freely give.'

This noble and manly testimony to the truth and influence of Holy Scripture was delivered in vain. The Government, actuated by the wisdom which is shrewder than that of the children of light, has declined to introduce an element into the schools in India which might arouse the jealousy of its native population, and by irritating the religious prejudices of the people by what some might consider an attempt to proselytise, weaken the hold of British rule in the Peninsula.

Napier, deposed from the bench in Ireland and excluded from that of England, had now ample leisure to devote to those literary tastes which were always strong within him, but which the press of other pursuits had hitherto kept somewhat in the background. His energy and activity had always been conspicuous, but they were now directed to another channel. He wrote pamphlets on the current

topics of the day, he delivered lectures upon eminent Irishmen, and, to combat the infidel tendencies of the age, he penned the preface to the work of the Rev. John Nash Griffin, 'Seven Answers to the Seven Essays and Reviews.' Two small volumes which occupied his leisure at this time deserve something more than a mere passing notice—his lecture on Edmund Burke, and his careful criticism of Butler's 'Analogy of Religion.'

Of Burke Napier was always a fervent and appreciative admirer. He considered him not only as the greatest Irishman that had ever lived, but, to use the words of Samuel Johnson, as 'the first man everywhere.' In his lecture which was delivered to the Dublin Young Men's Christian Association, Napier did not attempt to throw any new light upon the different events in the life of his hero. He remembered who were his audience, and suited his subject to their intellectual grasp. In a clear and attractive style he brought forward the chief facts in the biography of Burke with the object of illustrating the industry and great genius of the man, the purity of his patriotism, his single-mindedness of purpose, his hatred of oppression, his courage, his independence of action, his piety, the splendid labours of his pen, his lofty eloquence, and his noble pursuit of all that tended to elevate the welfare of his

country. Few, said Napier, could hope to possess the great mental gifts of Burke—gifts which placed him in the front rank of genius with Shakespeare and Bacon—but all could endeavour to imitate him in his endeavour to purify the feelings and enlarge the heart of humanity.

Though avowedly a party man, Edmund Burke was too deep a student of politics and philosophy, and too brilliant and original a genius to be tied and bound by the strict creed of mere party views. He was essentially an eclectic politician. He accepted what was good in every section, and eliminated the bad. His sympathies were in favour of the Whigs, but when he found that Whig principles, as interpreted by Charles James Fox, were coquetting with the revolutionary measures across the Channel which tended to the degradation of all that was pure and noble, he boldly severed himself from his party and gave the influence of his support to the other side. Of the independence he displayed on this occasion, an independence which he fully justified in his 'Appeal from the New to the Old Whigs,' Napier thus speaks:

> It is clear, at all events, that Burke saw further than any of his contemporaries, but if, instead of ranging himself on the side of established order, he had joined with the new Whigs in abetting popular excesses, and so breaking in upon

the genuine principles of the English Revolution, it is difficult indeed to say what might have been let loose upon England, and what might have swept over Europe. Those who charge him with inconsistency overlook the very excellence and essence of his political philosophy, which never tampered with the great and immutable principles of truth and freedom, but always took into account the realities and the moral facts to which those principles had to be applied. There was in his syllogism what he so aptly called the minor of circumstances. The science of statesmanship was not with him a dreamy discussion of abstract or metaphysical theories, but a moral and a social branch of inductive philosophy.

In his lecture Napier makes it appear evident that the instincts of Conservatism, as interpreted by his essays and speeches, ran strong within Burke. The author of the 'Sublime and Beautiful' was always in favour of preserving our institutions so long as they should be preserved, and where reform became necessary, of displaying caution and deliberation in the effecting of all alterations. He believed in restoration, not in revolution; nor was he ever in favour of any *abrupt* deviation in the plan of government. It was for this reason that he opposed the theory of American taxation, which was not a gradual but an abrupt deviation from all former modes of government. 'Talk not of your abstract rights of government,' he cried, 'I hate the very sound of them; follow experience and common sense, desist from the innovation

you are now attempting, do as you have always done before in permitting America to tax herself; and in all ordinary circumstances of the world the effects will be the same, namely, peace, security, and attachment.'

It was under the influence of these sentiments that, as we have said, he so vehemently denounced the French Revolution. His love of things ancient, his love of religion, order, and moral and physical purity, were irritated and disgusted by the foul proceedings of the republicans, who were struggling to gain their ends by the most infamous arts which murder, robbery, and blasphemy could suggest. Yet Burke was, as Napier shows, never an opponent of true and sound reform. When a liberal and conciliatory line of conduct ought to be adopted he stoutly supported it. He upheld the principle of free trade, wishing his own country in union with other countries to adopt it; he advocated the claims of Roman Catholics to the rights of citizenship, he was in favour of relieving dissenters from the necessity of subscribing to the Thirty-nine Articles, he freed taxation from several of its burdens without unduly trespassing upon vested interests, and he voted in favour of an enlarged corn law, yet without putting in jeopardy the agricultural interest. Throughout his political life all his ideas were instinct with

light, breadth, and toleration. In his private conduct he was strictly correct, and his moral purity was woven into the texture of all his political actions. 'There never was,' writes Cazales, the opponent of Mirabeau, 'a more beautiful alliance between virtue and talents than was to be found in Mr. Burke. All his conceptions were grand, all his sentiments generous.'

Dear Edmund Burke (cries Napier in concluding his lecture), what a debt we owe to thy memory! In his lifetime a statue was suggested—suggested here in his native city—but his own words were, 'Such honours belong exclusively to the tomb, the natural and only period of human inconstancy with regard either to desert or opinion.' The time has at last arrived, and now, under the generous auspices of one who loves Ireland, we will begin the good work in good earnest. In Beaconsfield he sleeps in the grave; no monumental marble testifies that the life he lived for England or the labour he exerted for France has been gratefully remembered. A mural tablet in the church, a recent inscription on brass over the spot where his remains are mouldering—the offering of a few kind members of the De Burgh connection—these are the memorials to this illustrious man. To him I may apply the lines of his own loved Milton—

> What needs my Edmund, for his honoured bones,
> The labour of an age in piled stones;
> Or that his hallowed relics should be hid
> Under a starry-pointing pyramid?
> Dear son of memory, great heir of fame,
> What needst thou such weak witness of thy name?
> Thou in our wonder and astonishment
> Hast built thyself a livelong monument.

The memory of the just is blessed—and a generous country will not be unmindful of her illustrious dead.

We will yet look on his statue, we will think of the man; our souls will expand with generous emotion, and from the contemplation of his virtues we may catch a portion of his spirit. Goldsmith will be at hand. I think I hear his gentle spirit speaking thus:

> There stands our great Edmund, whose genius was such,
> Some blame it indeed, none have praised it too much.
> So large was his heart and so lofty his mind,
> That he held not with party but clung to mankind.
> Too honest for tactics, and when disobedient,
> 'Twas to follow the right as the truly expedient.
> Too upright for office, and seldom in place,
> He has left a remembrance no time can efface.

When we call to mind how every part of his life has been exposed,—the correspondence so various, the critics so censorious,—how blameless were his morals, how generous his affections,—his self-respect,—his sustained integrity in times of trial and temptation,—how he remembered his Creator in the days of his youth, and trusted in the God of his salvation as he sank in life's decline,—must we not admire his virtues and reverence his goodness, whilst we stand amazed at his wisdom and wonder at the greatness of his genius?

Teacher of statesmen! saviour of States! Thine were no blood-stained triumphs. From East to West, from India to America, from the rising of the sun to the going down of the same, like the path of that glorious luminary above the shadows and the storms of this troubled world, thine was a heavenly track of bright beneficence. Thy martyr life of duty, closing in faith and hope and charity, shall in no wise lose its reward.

Advocate of the oppressed, refuge of the exile, friend of the friendless!—the poor outcast, blighted by sin, flung on

a cold world to wither and to perish, found sympathy in thy heart, a shelter in thy home. She could not recompense thee; 'thou shalt be recompensed at the resurrection of the just.'

The work on 'Butler's Analogy of Religion to the Constitution and Course of Nature' was of a more ambitious character. It also in its original form was delivered as a series of lectures to the Dublin Young Men's Christian Association, though afterwards published as a small volume. No more lucid or careful text-book upon Butler has ever been written. In a concise and pointed manner, which readily impresses itself on the memory, Napier deals with all the salient arguments of Butler, so that the little work constitutes a most useful help to the study of the 'Analogy.'

The student of Butler (says Napier) can scarcely fail to notice how thoroughly practical he is—how repeatedly he reminds the reader of the duties of life, the proper business of man placed in this stage of an endless existence, in this part of a great and boundless scheme of the universe, in which he finds himself. 'The design of this treatise (writes Butler) is not to vindicate the character of God, but to show the obligations of men; it is not to justify His providence, but to show what belongs to us to do. It is not to inquire what sort of creatures mankind are, but *what the light and knowledge which is afforded them requires they should be*; to show how in reason they ought to behave, not how in fact they will behave.' Butler opens the inquiry with a discussion on probability,

and he contrasts it with that demonstrative certainty which admits of no degrees, but is in its nature conclusive. Such opening is appropriate to the analogy which Butler proceeds to discuss, because the course of life does not supply mankind with conclusive certainty on which it is to act; *probability in its various degrees is the guide of life.* Man is a moral being, and as such he should naturally act on moral convictions. Under the natural or settled constitution and course of things, in our common daily life, we act upon what is more or less probable, not upon what is *demonstrative.* It is enough if the evidence be such as makes the faculty within us which is the guide and judge of conduct determine our course of action to be prudent or obligatory. 'Religion (writes Butler) is a *practical* thing, and consists in such a determinate course of life as being what there is reason to think is commanded by the Author of Nature, and will upon the whole be our happiness under His government. Social duties are found to be sacred and religious obligations, our common life a reasonable and religious service. Thus the sceptic is met at the outset by this, that if his objections prevail they must overrule our undoubted experience, falsify the undeniable facts which we observe, and displace the realities of which we cannot but be conscious.'

What, then (asks Napier), is the *probability*, the presumption in any degree, as to the facts which Religion teaches? If religion is *practical*, and *probability* is *the guide of life*, on which we are required to act, and which is adapted to the moral nature which God has given us, and for the purposes of our discipline and our progress, then it is of undoubted importance to ascertain in the first instance whether there is *any presumption* in favour of what religion teaches. If there is any, the sceptical objector whom Butler encounters is thereby answered, if not silenced. With reference to the great fact of a future life, many things, particular analogies, show

that so far from our having reason to conclude that we shall cease to be when the phenomenal change of death takes place by the dissolution of the body, there is nothing strange, nothing incredible, in our existing in another and subsequent state of life; that it is reasonable to suppose that our living nature will continue after death; that at least this is so far *probable* that we ought not to act upon the contrary supposition; that our present experience, our moral intuitions, our capacity of happiness and misery, the character of God as the righteous Governor of the world—the constitution and course of nature, its system of progress, preparation, and continuity—all lead us to accept the conclusion that this life is an institution for eternity, a probationary stage for man as a moral and immortal being; a truth which harmonises with all we can observe and experience in the order of Providence, and with those moral judgments of the heart and conscience which sustain the reason itself, if they be not (in part at least) the highest efforts of its own inherent energy.

Napier then passed in review the mode in which Butler treats his subject—how, without entering on the question of miracles and prophecies, he rests his evidence on the analogies of nature, reasoning from that part of the divine proceedings which comes under our view in the daily business of life to that more comprehensive part of those proceedings which is beyond our ken, and which religion reveals; how the argument for a future life is based upon the changes which the human body undergoes at birth and in its different stages of maturity; and how the

man who believes Scripture to have proceeded from the Author of nature may well believe that the same difficulties exist in it as in the constitution of nature. Hence Butler infers that he who denies the truth of Holy Writ on account of the difficulties to be found in it may for the same reason deny the world to have been formed by God. As inexplicable difficulties are discovered in nature, it is not therefore surprising, argues Butler, to find similar difficulties in the Christian religion. The Bible is our one great guide, though it is not pretended that by its pages everything is fully explained.

It is not intended by Butler (writes Napier) to present what would be acknowledged to be a *satisfactory* account of the matters which he has discussed, for this reason amongst others, that satisfaction, in the sense in which it is required by objectors, does not belong to such a creature as man. And with reference to religion it is not a matter of speculative curiosity, and the question is not whether the evidence be satisfactory in the sense of objectors, but *whether it be sufficient for the purpose for which God has intended it.* It may not satisfy curiosity, but it can, under God's blessing, make wise unto salvation. It places man under the most solemn responsibility to refuse not Him that speaketh from heaven, and if the evidence be such as ought to convince his conscience and influence his heart, it proves him and tries him, as one who must give account to Him who will judge the world in righteousness. Religion, then, so far as it is probationary, has had its end upon all to whom it has been proposed with evidence suitable and sufficient to induce their submission to

God's will, and their unconditional acceptance of His free gift of salvation. Butler glances at other considerations besides these practical views, considerations derived from the abstract truths of moral fitness and moral freedom. But with a view to meet objectors on their own level, and notwithstanding their avowed principles, Butler has not availed himself of these higher truths. The actual government of the world is a matter of fact—and so is its moral character—without reference to the disputed questions of liberty and moral fitness. The moral faculty which God has given to man, as well as the moral rule of distributive justice, is a matter of fact, a fact which we ascertain by a present experience; and that this rule will be hereafter acted on has been established by a practical proof, confirmed by the natural analogy of nature—not offered as 'demonstrative,' but as a practical proof, a proof suitable and sufficient for the guidance of man as a moral being impossible to be evaded or answered. Religion implies in it numerous facts, and analogy confirms all facts to which it can be applied; and thus, so far as natural religion is concerned, so far as the moral system which is implied in it and the facts of that system are involved, these have been shown to be credible and reasonable, neither crushed by fatalism nor disparaged by premature and partial judgment.

Napier concludes his lectures by an affectionate allusion to his audience:

The hours of thoughtful preparation, and the hours of our meeting together have been to myself pleasant and profitable. If the leisure which God has given me, and the sympathies with young men, which I feel as warm and as fresh as in the earnestness of College competition—if these

have in any degree enabled me to encourage, to elevate, to help forward, any one of those whom I am here privileged to address, the leisure has not been unprofitably squandered, the sympathies have not been lavished away. The success of this and the other kindred associations of our young men is to me a subject of the deepest thankfulness to the great Head of the Church. My connection with you as one of your fellow labourers I regard as one of the happiest privileges of my public life. Here we have seriousness without gloom, earnestness without fanaticism, reason without rationalism. We honour Church and State, the truth and the freedom which belong to the charter of both; loyalty to our Sovereign and love to our God are offered here as the genuine homage of true Irish hearts. Go on in this spirit, with that wise moderation which is the privilege of conscious strength, like the gentle messenger of Noah, with a mouth for the olive branch, a heart for the ark, a wing for heaven. And finally, remember that the reformed faith which we profess is the restored Christianity, the pure and primitive religion of the one and only gospel of our Lord and Saviour.

A copy of this lecture was sent to Mr. Gladstone. It was thus acknowledged:

Being myself (writes that distinguished statesman) much more than an admirer, almost a worshipper of Bishop Butler, I cannot avail myself of your very kind permission to leave your gift unacknowledged by letter, but I must express along with my thanks the vivid pleasure with which I learn that you have been applying your distinguished abilities to the study and elucidation of a writer perhaps better calculated than any other in our language to supply us with safeguards against the peculiar dangers of the age.

During this period of enforced leisure we find Napier travelling down to Oxford in the summer of 1862 to attend the Church Congress then being held in that city. He spoke on this occasion upon the best means of promoting the legitimate influence of the Church in the House of Commons; to effect this object he strongly urged the necessity of lay co-operation in the working of the parochial system, and of a more systematic method of holding conferences so as to collect opinion on the different questions which arose in connection with the working of the Church system.

Napier appears to have been a constant attendant at these Church Congresses, and was always when present appointed to take a prominent part in the discussions that ensued. In the autumn of 1864 we find him at Bristol, speaking upon his favourite subject, the mutual relations of the Church in England and Ireland. He warmly advocated the claims of the Irish Church, and deprecated her treatment as an inferior by the Church of England. 'You must drop that Church of England,' he cried, 'which is always grating on my ears. I protest against it. There is no such church. There is the Church of Christ in England, there is the Church of England and Ireland—the United Church—the one National Church of the realm.' The following year

he was at Norwich, when he maintained that the Committee of the Privy Council, then being warmly assailed by the Ritualists, from its mixed constitution of judges and prelates, was a most perfect tribunal for deciding appeals from the Ecclesiastical Courts. He was, however, careful to state that such Committee could only deal with Church doctrine so far as it had been established by law. It had, he said, no jurisdiction to declare doctrine nor to establish it by law. Its province was jus *dicere*, non jus *dare*. In 1867 the Church Congress was held at Wolverhampton, and there Napier advocated an inquiry into the causes which prevented Nonconformists from entering the Church, with the object if possible of removing the difficulty. On this occasion he also strenuously recommended the Church to busy herself so as to bring the working-man who had been recently emancipated by the Reform Bill within her influence.

The last appearance of Napier at these meetings was in the autumn of 1868, when the Church Congress was held in Dublin. The subject of his paper was how to increase the efficiency of church service? Many of his suggestions have since been adopted. He advocated the omission of the Litany at morning service when the Communion was administered, the administering of the Communion as a separate and distinct service, the preaching of shorter sermons, a

greater attention to be paid by all curates to the clear enunciation of their words, a more careful selection of the hymns, and the rejection of all innovations calculated to offend a congregation. It was on this occasion that Lord Derby, at the special request of Napier, consented to become a vice-president; though, wrote his lordship, 'I must acknowledge that I have not a very high opinion of the practical utility of Church Congresses in general, but as a friend to the Irish branch of our establishment I will not withhold my name if it be desired to have it on the list of vice-presidents.'

CHAPTER VII.

ECCLESIASTICAL.

My soul aches
To know when two authorities are up,
Neither supreme, how soon confusion
May enter 'twixt the gap of both.

Coriolanus, act iii. sc. 1.

He that would do right to religion cannot take a more effectual course than by reconciling it with the happiness of mankind.—*Tillotson.*

It was evident, from the frequent attacks made upon the Irish Church by the bringing forward of hostile motions in the House of Commons, that the next popular 'cry' with which the Liberals would appeal to the country in the hope of strengthening their party and of healing the divisions in their ranks, would be that of the disestablishment of the Church in Ireland. Already by speeches and pamphlets the public were being made familiar with the views of certain of the more prominent Liberals upon the subject—how infamous it was that the Church of the minority should occupy the power and position of the Church of the majority; how the population to which she appealed was little more than half a

million, yet in spite of such scanty following she maintained two archbishops, a staff of bishops, and was permitted to expend millions of public money; and how she had failed in every object for which an established Church was upheld by the State. At this time Mr. Dillwyn, the member for Swansea, was the chief agitator of the party in asking jaundiced questions, moving inimical motions, and urging the necessity of appointing committees of inquiry. Napier was then in Dublin, and from the vantage point of the leisure now accorded him he looked down upon the spite and jealousies seething around his beloved Irish Church, and saw what course ought at once to be pursued to save her from the wrecking schemes of the agitator. He wrote to Mr. Disraeli upon the subject.

Mr. Dillwyn had moved for a Select Committee

To inquire how far the present distribution of endowments for religious purposes throughout Ireland may be so amended as most to conduce to the welfare of all classes of her Majesty's Irish subjects; to search the journals of this House for any resolutions passed since the Act of the 39th and 40th George III., cap. 67, having reference to the application of any surplus revenue arising from ecclesiastical endowments in Ireland; and to report how far such resolution or resolutions appear to have been subsequently carried into effect.

The member for Swansea supported his motion by the well-worn arguments usually brought forward

on such occasions—that the cause of the unsatisfactory state of things in Ireland was due to the position of ecclesiastical affairs in that country and to the condition there of its religious endowments; and that the Act of Union interposed no obstacle to an interference with the temporalities of the Irish Church. There was no political need, he concluded, for such an establishment as the Irish Church.

An amendment to this motion was moved by Mr. H. Seymour, who urged the appointment of a Royal Commission to inquire into the statistical condition of the Irish Church, the population and income of the several parishes, the relative numbers of Protestants and Catholics in each, and other particulars, with a view to the introduction of practical reforms.

As an old coadjutor (writes Napier to Mr. Disraeli, May 15, 1863), I venture to write a few suggestions relative to the debate and division to be expected on Tuesday next on Dillwyn's motion relative to the Irish Church. We have fools and fanatics amongst our own ranks who damage us occasionally, and I think the contest for Tralee, or rather the attempt to get up a contest, shows how embarrassing such men may be to us, especially in Ireland. The point that has been assiduously laboured here [in Ireland] is to infuse into the Protestant mind the suspicion that we are prepared to compromise the interests of the Protestants for an Ultramontane alliance, and the folly exhibited at Tralee has given occasion to our foes (the Palmerstonians) to impress again and again on the public the danger of this alleged unholy alliance. I

find suspicion rife everywhere, and the injury to our cause is manifest. Now it is true that we cannot prevent the unscrupulous use of such calumny and such invention of the enemy, but I think it is very desirable that on every legitimate occasion it should be seen that we are in every respect what we profess to be, the genuine Conservative party of the empire.

It is on this account that I would earnestly suggest to you the policy of taking a leading part in the debate on Dillwyn's motion. A good resistance to this as an attack on the *United Church*, and therefore to be met by a flat negative, would be of much service to you with many influential and intelligent men in Ireland, and would (I think) neutralise the artifices now employed to damage us, as if we were Bourbonist or Ultramontane in our views and secret policy. If Dillwyn can assail us successfully on arithmetical grounds (after the manner of Colenso), I think he might not find it difficult hereafter to select districts in England or Wales to which a like measure of spoliation would be applicable. The relative decrease of Protestants has not been as great as that of Roman Catholics; and I believe it will be found that we could spare above 69,000 before we would stand relatively to Roman Catholics as we did in 1834. Besides, the effect of emigration has told more against us.

The change now going on, in consequence of modern commercial policy, is breaking down the small farm system, and it is difficult to say what may be the effect in a few years when skill and capital and increased farms have become a necessity amongst us. I think this is likely to tell in favour of the Protestants.

But the Irish Church is so bound up with the settlement of property here and with the union of the countries, that I think it is not open to spoliate it in any way that may not

affect England and the English Church. There is very remarkable evidence given by the late A. R. Blake before the Commons Committee on Ireland in 1824–25 (see p. 41, and especially 744) in which he expresses his opinion in very remarkable language that the Church 'is rendered as far as the most solemn acts of the Legislature can render any institution fundamental and perpetual; it is so declared by the Act of Union between Great Britain and Ireland. I think it could not now be disturbed without danger to the general securities we possess for liberty, property, and order; without danger to all the blessings which we derive from being under a lawful government and free constitution.' These are remarkable words from a Roman Catholic of such influence and intelligence. My belief is that there are many of the well-conditioned Roman Catholic laity who hold the same views.

Seymour proposes an amendment which it is not unlikely (from what I hear) the Government may adopt. But whatever are the merits of this proposal of Seymour, or whatever good it might effect, it is not the answer that should be given to such a motion as that of Dillwyn. For my own part, I have no objection to the Commission suggested, though I think it could merely provide some additional power to remedy a few local anomalies. It could have but a small remedial operation on the Church generally, whose efficiency must be promoted by a more temperate policy amongst its own members, greater regard for their own people, and less anxiety about polemical controversy and proselytising. The debate on Shee's last assault in 1854 (I think) established this—that our available net income is about 70,000*l.* a year less than Shee was willing to allow for a sufficient and efficient establishment for the Irish Protestants. In order to make out a fund for his ulterior measures in favour of his own Church, he had to

exaggerate our resources into nearly double their true amount, as was demonstrated in the debate, and the Secretary for Ireland (Sir J. Young) admitted that having had access to the official documents he could vouch for the accuracy of our figures. Since that time the Government of Lord Palmerston has stripped the Church of 'Ministers' money,' and so far reduced our income. About one-third of the benefices are under 200*l.* a year, many not worth more than 100*l.* to 150*l.* So that it is plain there is no question for spoliating us, if a Church is to be maintained at all. It is a question for the friends of the Church how it may have freer action and be made more efficient, and any proposal for amending the laws of Church temporalities should be favourably entertained, but not perverted to the purpose of evading a hostile thrust from such a hand as Dillwyn's.

I really must say that I think it would be a valuable service to the Church and to our party, and would put you in your true position in the eyes of some who have been misled by the *sæpe cadendo* of the Palmerstonian press, if you would take up the question, and as our leader express your views with your accustomed ability and force on Tuesday evening.

The motion for inquiry, after being discussed on three several nights, was disposed of without any direct decision of the House. A motion for the adjournment of the debate having been negatived by a division of 228 to 67, it was then moved that 'the House should adjourn,' the practical effect of which was to drop the question. To this motion the Government did not object, and the House adopting

it *nem. con.*, the matter was thus disposed of. Mr. Disraeli did not speak.

At a later date Napier writes again to Mr. Disraeli upon the same subject. Mr. Dillwyn had again brought forward his motion.

I know not (he writes, March 25, 1865) whether you propose to take part in the debate on Dillwyn's motion; I hope sincerely that you may. It is most desirable that it should not be dealt with as a mere Irish squabble about the Irish Church, but on its true merits as a movement of dissent and democracy against a religious establishment and a landed gentry. It has originated in England, it is the next move after the repulse on the church rates in England, and it is part of the programme of the 'coming men,' for in his letter to Archbishop Cullen, or rather to the late Ultramontane Lord Mayor of Dublin (Dec. 22, 1864), Bright announces that the Liberal party *are in want of a programme*; and so the abolition of the Irish Church and of primogeniture, and the change of proprietors by an agrarian revolution, are suggested for the purpose of this confederacy. . . . I regard the whole of this movement as now under the direction of the so-called Liberals, who are to constitute the party hereafter by which the institutions of the country are to be assailed in the next great struggle of parties.

The motion of Dillwyn[1] is evidently revised by some old artful hand; methinks John Russell is the man. It is the first parallel for the siege. Now, in the first place, to separate us in Ireland from the United Church and make a local assault

[1] These were the words of the motion: 'That in the opinion of this House the present position of the Irish Church Establishment is unsatisfactory, and calls for the early attention of her Majesty's Government.'

upon us with a view to abolition is a fraud upon the Treaty of Union. But another topic suggests itself which no one could work with better effect than yourself. There has been of late a very improved feeling amongst the more intelligent of both Churches in Ireland, and a growing desire to co-operate more in matters of common interest to both. I may refer to the fact of the absence of every man of position or property from the metropolitan meeting presided over by the late Lord Mayor, and attended by the Roman Catholic Archbishop (Cullen). None of any note attended at the Limerick meeting. Two of the laymen who attended and made speeches have publicly backed out of them and expressed their desire to be at peace with their Protestant friends. The address to Mr. Guinness to thank him for his munificent restoration of St. Patrick's Cathedral has been supported heartily by many influential Roman Catholics. They are sick of agitators and schemers, and somewhat afraid of Fenianism, and not disposed to peril the general security of property. At such a time to force upon us a religious war is base and cruel. It must stop the progress and mar the prosperity of the country.

My belief is that you cannot have English government here without the Established Church, and any betrayal of it would alienate all the Protestant feeling of the country. We want to soften the antagonism of the Churches by encouraging toleration and co-operation; to make the members of the United Church better churchmen and better Irishmen, with less of polemical bitterness and less of Puritan exclusiveness; to make the Roman Catholic less papal and ultramontane, and more truly national and loyal. I see a growing improvement and a disposition to mutual concession—in fact towards the wise and statesmanlike views of our great Edmund Burke, whose statue will be inaugurated this year in the front of

Trinity College. Our executive is very feeble. The Viceroy [Lord Wodehouse] a mere political puppet, intelligent and courteous, but with no social position and without the semblance of that authority which should be reflected from the Queen's representative. The law has been so feebly and so partially administered as to produce very mischievous results. I think you would confer a great benefit by speaking out on Dillwyn's motion and exposing the real purpose of the 'New Company.' Lowe would treat us as a convict colony; Bright would clear us out for new settlers or old ones on new terms; Dillwyn would repair by pulling down. I see no reason why the Church may not be resolutely defended without the smallest offence to the Roman Catholics, and without prejudice to such concessions to them as are in themselves just and liberal.

This motion fared no better than its predecessor. It gave rise to a debate which was adjourned, and nothing more was heard of the matter. Mr. Disraeli took no part in the discussion that ensued. The chief member of the opposition who combated the views of Mr. Dillwyn was the present Viscount Cranbrook, then Mr. Gathorne Hardy.

The leisure which Napier had somewhat unwillingly enjoyed since his resignation of the Seals, was now broken in upon by a class of work for which his talents eminently qualified him, and which was peculiarly after his own heart. Early in the year 1864, a Royal Commission had been issued for the purpose of considering the forms of subscriptions and declarations

of assent required from the clergy of the Churches of England and Ireland, and how far they might admit of alteration. The subject had given rise to frequent discussions in Parliament, and it was felt on all sides that the sooner the matter was definitely settled the better would it be both for clergy and laity. Upon this Commission Napier was asked to sit and take part in its labours, an invitation he gladly accepted. He had for his colleagues the Archbishop of Canterbury (Dr. Longley), who presided over the Commission, the Archbishops of York (Dr. Thomson), Armagh (Dr. Beresford), and Dublin (Dr. Trench), the Bishops of London (Dr. Tait), Winchester (Dr. Sumner), St. David's (Dr. Thirlwall), and Oxford (Dr. Wilberforce), Lords Stanhope, Harrowby, Lyttelton, Cranworth, and Ebury, H. H. Milman (the Dean of St. Paul's), H. Goodwin (the Dean of Ely), E. P. Bouverie, Stephen Lushington, Spencer Walpole, Henry Venn, and others.

Thus at a glance it will be seen that the Commission was composed of men, both lay and clerical, of all shades of opinion in the Church. These high personages were commanded by her Majesty to 'consider and revise the various forms of subscription and declaration required to be made by the clergy of the United Church of England and Ireland on ordination, or on appointment, admission, or induc-

tion to any ecclesiastical dignity, benefice, curacy, lectureship or office, and to report their opinion how far they may be altered and simplified consistently with due security for the declared agreement of the clergy with the doctrines of the Church and their conformity to its ritual.' The commissioners were also commanded 'to consider the various oaths required to be taken by the clergy of the United Church of England and Ireland, on ordination, or on appointment, admission, or induction to any ecclesiastical dignity, benefice, curacy, lectureship, or office, and to report their opinion as to the expediency of altering or dispensing with the said oaths or any of them for the future.'

To understand the issue of this Commission, it is necessary that we know to what a clergyman had at that date to pledge himself before he could take Holy Orders or accept preferment. Every person ordained deacon or priest was then required first to subscribe to the Articles of Religion as enjoined by a special statute of Queen Elizabeth, binding him to obey the Thirty-nine Articles; next to subscribe to the three articles of the Thirty-sixth Canon relating to the royal supremacy, the use of the Book of Common Prayer, and to acknowledge the Articles as being in accordance with Scripture; and lastly to take the oath of allegiance and the oath of supremacy. Once or-

dained, the priest or deacon on being licensed to a stipendiary curacy was required to make the subscriptions and take the oaths above mentioned as on ordination; to declare that the stipend he was to receive was to be paid him 'without any abatement in respect of rent or consideration for the use of the glebe house, and without any other deduction or reservation whatever;' to take the oath of obedience to his Bishop, and to declare that he would conform to the Liturgy of the United Church of England and Ireland. When presented to a benefice or licensed to a lectureship he had to subscribe to the above oaths with the addition of binding himself to read publicly in church the morning and evening prayers, and to take the oath against simony. Upon the clergyman in Ireland the same oaths as in England were enforced, with the additional guarantee that he had to subscribe to a declaration against transubstantiation, and to take the oath required by a special Act of Henry VIII. to instruct the children of his parish in the English language.

The commissioners sat for several weeks, at various intervals, and early in the February of the following year issued their report. 'We, your Majesty's commissioners,' they said, 'in execution of the duties entrusted to us, have considered the existing forms of subscription and declaration with a view to reducing

their number and simplifying their character, and for that purpose we have reviewed the various circumstances which from time to time led to their adoption, and we have had regard to the altered circumstances of our own times. We have also considered whether it is possible to remove from those forms any expressions which have been by some deemed objectionable, and yet to preserve their just force as safeguards for the agreement of the clergy with the doctrine of the Church, and for conformity to its ritual. We have further considered whether any of the oaths now appointed to be taken can with safety be altered or dispensed with.' The result of the deliberations of the Commission was as follows:

That the declarations, subscriptions, and oaths to be made and taken by the clergy of the United Church of England and Ireland be the same in both countries. That the oath required by the Act passed in the reign of Henry VIII., to be taken by the clergy in Ireland be discontinued.

That whenever a subscription or declaration be required to be made in England or Ireland with reference to the Articles of Religion or the Book of Common Prayer, this form be used:

I, A. B., do solemnly make the following declaration. I assent to the Thirty-nine Articles of Religion, and to the Book of Common Prayer, and of Ordering of Bishops, Priests,

and Deacons; I believe the doctrine of the United Church of England and Ireland, as therein set forth, to be agreeable to the Word of God; and in public prayer and administration of the sacraments I will use the form in the said Book prescribed and none other, except so far as shall be ordered by lawful authority.

Then followed certain minor matters of detail relating to the time when the oath of allegiance and supremacy should be taken, the retaining of the oath of canonical obedience to the Bishop, and the declaration as to the stipends of curates. A declaration was also substituted for the oath against simony. 'We have recommended,' said the commissioners, 'the substitution of a declaration for the present oath against simony; to this recommendation we desire to add an expression of our opinion that the law on the subject of simony urgently requires revision.' This expression of opinion was certainly not given before it was needed.

From the papers before me it is evident that Napier took a prominent part in the work of this Commission, and was among the most active and suggestive of its members. The following important letter from Dr. Thomson, Archbishop of York, in reply to a communication from Mrs. Gardiner, confirms this statement.

I had the pleasure (writes his Grace, March 13, 1883), of sitting with the late Sir Joseph Napier on what was called

the Subscription Commission, a commission for altering the form in which the Thirty-nine Articles in the Prayer-Book were to be subscribed. This Commission was a large, and on that account somewhat unmanageable body,[1] and we consequently spent a great deal of time in discussion which might have been avoided in a smaller commission. When we came to settle the exact form of words in which the declaration should be made, our differences of opinion reached a climax. I think we spent at least two days in discussing various suggestions from different members of the commission on the exact form of declaration. The late Bishop Thirlwall applied his critical faculty with his utmost vigour, and no form of words was found able to stand before it. It was proposed at last to adjourn, and to make a resolution before we adjourned, that the next meeting should be decisive.

Lord Lyttelton, who was one of the body, said, 'If any one thinks that he will propose at the next meeting a form of words which will satisfy the Bishop of St. David's, he is probably much mistaken.' Bishop Thirlwall's surprise at this estimate of his powers of objection was very amusing; but the estimate was certainly not overcharged.

Amongst other suggestions that had been printed for our use, was one from Sir Joseph Napier, which by some oversight had hitherto passed almost unconsidered. In the interval between the two meetings, our attention was somehow directed, I think by Lord Harrowby, to this suggestion, which was found to be of a very practical kind. When we met again several of us urged the adoption of Sir Joseph Napier's draft, which with some slight changes was adopted. It may therefore be said that he relieved us from a great difficulty and led to the practical conclusion of our protracted discussions.

[1] It numbered twenty-six members.

His Grace closes his letter by describing the impression which intimacy with Napier made upon him.

It was always a pleasure to meet him; his learning and diligence, his fairness and humility, were conspicuous to all men, and that charm of character which brings a man into sympathy with those about him and earns true affection and goodwill, was present in him in a remarkable degree. Amongst the pleasures of declining life, I find it no small one to be able to look back upon my intercourse with a man so admirable.

Dr. Goodwin, then Dean of Ely, and afterwards Bishop of Carlisle, writes to the same effect.

Your father and myself (writes his lordship to Mrs. Gardiner, Jan. 23, 1883) were a good deal thrown together by being called upon to serve upon two Royal Commissions; namely, the 'Clerical Subscription' and the 'Ritual.' In the questions discussed in both of these Commissions, Sir Joseph Napier and I found ourselves frequently, though not always, in agreement, and we consequently had much pleasant intercourse. . . . You may perhaps be aware that the form of subscription or 'declaration of assent' now made by priests and deacons at their ordination, and by clergymen on being licensed to curacies or instituted to livings, is substantially your father's composition. It came about thus.

The form of subscription in use at the time when the Royal Commission was issued was of course scanned and criticised by the Commissioners, and it was generally agreed, in fact the appointment of the commissioners almost assumed, that the form might be amended. The question was how? The commissioners were invited by the chairman (Archbishop Longley) to make suggestions, and in accordance with the invitation a number of suggestions were made. I forget how

many, but I think half a dozen or more. The suggestions having been printed were submitted to discussion one at a time. The result was what might have been expected, namely, that several proposals which seemed to have much to recommend them fell to pieces under the influence of critical discussion. Those who know the keen power of dissection possessed by Bishop Thirlwall, and who remember that he was a commissioner, will not be surprised by being told that no proposal was likely to pass which had a single weak point.

However, the result of prolonged discussion and of the consequent destruction of several proposals of amendment was to make it tolerably clear to the minds of the commissioners what were the essential points to be introduced into the new or amended form. And upon one occasion a leading commissioner, I think the Archbishop himself, impressed upon us the fact that this was so; he enumerated the necessary features of a form which would prove satisfactory, and appealed to the commissioners to say whether he had not rightly represented the position in which the question then stood. Whereupon the late Lord Harrowby (I think I am right in giving this name) took up a copy of the paper which had been put in by Sir Joseph Napier, and remarked that he agreed with what had just been said, and that in his opinion Sir Joseph Napier's proposal exactly answered the conditions which had been enunciated. If I remember aright, Sir Joseph Napier was not himself present on the occasion, but the suggestion made concerning his paper met with general assent. It was almost immediately agreed that it should be taken into consideration, and the result was that with certain verbal amendments it was adopted, and so the existing 'declaration of assent' came to occupy the position which it now holds.

Though the proceedings of Royal commissioners are private, except so far as they are divulged in authorised

reports, I think that no harm can result at this distance of time from my giving you the foregoing particulars. An incorrect version of the story was current years ago and is perhaps now forgotten; what I have written, barring any possible slips of memory as to details, may be relied upon as the testimony of one who was present. It is right that your father should have the credit which is due to him, as the chief instrument of removing a source of irritation and conferring a permanent benefit upon the National Church.

The Archbishops of Canterbury and York, the Bishop of London, and his old and valued friend the late Lord Harrowby, appear to have been one in thought and action with Napier during the sitting of this Commission.

Upon the issue of the report a Bill was introduced by Lord Granville, on the part of the Government, to give effect to the recommendations of the commissioners. In proposing this Religious Tests and Subscriptions Bill, Lord Granville stated that 'the alterations recommended by so great a weight of authority had met with the general concurrence of the clergy, and would, he thought, guarantee the object which all had in view.' The measure encountered very little opposition in either House, and before the session of 1865 came to an end, was enrolled in the statute-book.

At the close of the deliberations of the Commission, Dr. Milman, the then Dean of St. Paul's, had de-

livered a speech which was afterwards published in *Fraser's Magazine.* The purport of this speech was that conformity to the Liturgy was the best and surest attainable security for the declared agreement of the clergy with the doctrines of the Church; that subscription to the Thirty-nine Articles was not only unnecessary but in a high degree objectionable; and that the only subscription required was that to the Book of Common Prayer. These remarks were refuted by Napier in a lucid and masterly pamphlet which was published shortly after the appearance of the Dean's article in *Fraser.* Looking at the question as one of principle, Napier contended that the Church ought to require those who were to be her commissioned ministers to express their assent *in some form* to the doctrine which they were to teach and preach.

This must of necessity (said Napier) involve a reference to the documents in which this doctrine is declared. These are the Articles and the Formularies drawn up by the Church, adopted by the Legislature, and established by the law of Church and State. The Articles were framed by the Church avowedly 'for the avoiding of diversities of opinion, and for the establishing of consent touching true religion.' According to the royal declaration prefixed, they 'contain the true doctrine of the Church of England, agreeable to God's Word.' They do not profess to furnish a complete body of dogmatic theology, but they define what was received, they clear what was obscured, and they condemn what is repugnant to the

Holy Scriptures. They embody and express the Church's authoritative decisions on the matters therein determined, and in a peculiar though not exclusive sense they constitute the Church's *code of doctrine.*

The Dean, on the other hand, maintained that the doctrines of the English Church were not only more simply, but "more fully, and assuredly more winningly," taught in the Liturgy than in the Articles. Napier denied this assertion. It was true, he said, that there were declarations of doctrine in the Liturgy, but only to a limited extent. The Book of Common Prayer was compiled not for the determining of controversies of faith, but for the establishing an uniform order of Common Prayer, and the administration of the Sacraments. The Articles were drawn up in pursuance of the *authority* of the Church, to settle controversies of faith in accordance with Scripture; the Prayer Book was compiled in execution of the *power* of the Church, so far limited that nothing should be ordained that was repugnant to Scripture. The provisional element in the Prayer Book was as distinctive as the permanent element in the Articles. The very excellence of the Liturgy, argued Napier, as a code of devotion, rendered it unfit to be the peculiar test of doctrine. It tended to profane devotional feeling if they associated the harmony of prayer and praise with doubtful disputations.

Although (he says) a deficiency in the Articles may be supplied, or a doubt may be removed by a distinct declaration of doctrine in the Prayer Book, yet the occasion for this is found to be exceptional. The fact of the Creeds having been incorporated into the Articles shows the anxiety of the Church to have a distinct code of doctrine, and to keep the Book of Common Prayer for the pure and peaceful purpose of undisturbed devotion.

But, continued the Dean, the Articles were negative, were controversial, and contained things hard to be understood. Napier replied that if they were negative, so was the law given from Sinai; if they were controversial, so were some of the Catholic Epistles, and two at least of the creeds contained in the Prayer Book to which Dr. Milman would retain subscription; and as for containing things hard to be understood, so did all the Epistles of St. Paul. To assert, as the Dean had asserted, that the doctrinal teaching of the Prayer Book was as full or as complete—he would leave more winningly out of the question—as that of the Articles was absurd. Where in the Prayer Book, asked Napier, were Pelagian perversions met as in the Ninth Article, and where was the great doctrine of Justification stated as in the Eleventh? Where was the scriptural position of works in the Christian scheme declared as in the Eleventh, Twelfth, and Thirteenth Articles? Where was the sinlessness of Christ and of Him alone so

explicitly declared as in the Fifteenth, that special bulwark against heresies? One of the most dangerous doctrines of modern Rationalists was denounced with apostolical severity in the Eighteenth. Where had they in the Prayer Book an equivalent for that great foundation Article—the Sixth? 'I might easily,' he says, 'extend the contrast. It is not necessary for me to do more than to establish that the Prayer Book is not of *itself* sufficient for the acknowledged purpose of subscription. It is consistent and concurrent, but it is *not coextensive* with the Articles.'

In the Book of Common Prayer *and* the Articles, the Church, contends Napier, has a double protection. In neither is it pretended that a complete and satisfactory account of the mysteries of our faith is furnished. It is not for man speculatively to determine how or in what measure the divine element has been blended with the human. There may be sufficiency without perfection, and we should collect the gracious purpose of God from what He has done and given, not from any preconceived notion of what we think He must have designed. 'There are many things,' wrote Bishop Thirlwall in his charge to his clergy in 1863, 'in which our highest wisdom is to resign ourselves to the consciousness of our ignorance, and to the certainty that

on this side the grave we shall never know more of them than we do.'

The substance of the Articles and the spirit of the Prayer Book, writes Napier in conclusion, should always be combined, since the rules for the true construction of both have now been judicially settled. The Articles should be construed in the plain, usual, and grammatical meaning of the words, so far modified as to avoid absurdity, contradiction, or repugnance throughout the whole. In the Prayer Book what is devotional is not to be confounded with what is dogmatical. We are to distinguish. What is dogmatical is to be dealt with as if in the Articles, whilst the devotional services are not to be treated as declaratory, nor to be construed by the hard rules of a rigid logic. The Articles and the Prayer Book should be so understood and so interpreted as to be reconcilable and consistent; the Church does not exact subscription to them separately, but as *one transaction.* Says the Dean of St. Paul's, in requiring subscription to the Articles and the Prayer Book taken together, there is 'a very dangerous, a very objectionable, a very immoral trial of the conscience.' If the Articles then, contends Napier, are not fit to be subscribed, they should be superseded and suppressed. They ought not to remain as a part, as the main part, of that doctrine which 'this Church

and realm has received,' and the ministration of which in its fulness is made the subject of a deliberate pledge solemnly given on receiving priest's orders. Should any presume to minister if he cannot morally subscribe the *doctrine*?

Has the Dean of St. Paul's (asks Napier as his final question) considered this consequence of his proposal? He cannot escape from it. Subscription or non-subscription has no effect on the doctrine as declared and established. It does not create nor abridge the obligation which the law of the Church and the law of the State imposes on him who takes holy orders—an obligation altogether irrespective of subscription. The subscription is to attest his moral and believing assent to this doctrine, and so far as it is not fit to be subscribed, it is not fit to constitute a part of the Church's code. The Dean does not seek to prune; he lays the axe to the root of the tree; 'cut it down, why cumbereth it the ground?' His argument is directed against all the Articles as a code of definite and dogmatic doctrine; the language of some and the seeming inutility of others is only brought forward in aid of the general attack which he makes upon the whole. An ancient mansion may not be the less convenient for a modern household because it has some old-fashioned apartments seldom, if ever, occupied.

Whatever may be said of obsolete expressions or questionable passages in the Articles or the Prayer Book, it has not been shown that there exists any real impediment to giving a general honest assent to both as the Church's repository of doctrine and devotion—

> Truth's consecrated residence, the seat
> Impregnable of liberty and peace.

Shortly after the publication of this pamphlet, Napier crossed over to the Isle of Wight and enjoyed a brief holiday at Ryde. Though an idle man, he was watching carefully the course of events, and expecting when the tide turned to be borne on its flood again to office. More than once in the correspondence before me he writes upon the chances of the Conservatives being returned to power, and then the judicial work after which he hungered being offered him. The gist of his letters is that his party must shortly, though not at present, be reinstated in office. The fact was that England at this date was content to allow things to remain as they were so long as Lord Palmerston remained at the head of affairs. After him might come the deluge, but not before his departure. Neither was there then any occasion for agitation or discontent. The country was at peace with her neighbours; trade was sound and flourishing, the revenue was buoyant, party feuds were dormant, and there seemed to prevail among all classes a general acquiescence in the opinion that 'old Pam,' whose career could not in the course of nature be long protracted, might safely be trusted to continue at the helm, especially since the vessel required so little steering and the waves around were smooth. Napier, writing to his brother-in-law, James Whiteside, reflected these views.

I have been thinking over the political future. I believe that our party is still very effective as a Conservative opposition, subject to some qualification which I shall notice. But I do not see at present any reasonable ground for expecting a change of *régime* until Palmerston is set aside. The country is gaining wealth by commerce and manufactures, and this engenders a good deal of political indolence and laxity. To tide over difficulty, to get principles in what seems to be most convenient [*sic*] for the occasion, to avoid collisions and evade difficulties, these are the prevailing dispositions. And I think you will find the tendency to be to give up everything that does not touch what is felt by all to be vital. Thus it is that we appear as a party without any distinctive policy or decided attitude, and without leaders who exercise the moral influence of men who not only command confidence but respect. I doubt very much whether Lord Derby has any desire to leave his present easy position. And yet there is no other head to whom we can look up. He has many fine qualities and great ability, but of late he has not, I think, looked after his men as a leader should who desires to keep up his commandership. Our men have been left to drift when they should have been carefully piloted, and thus have they got on the rocks on more than one occasion.

And now it was that Napier again came before his favourite audience, the Dublin Young Men's Christian Association, to deliver a thoughtful and encouraging lecture (February 8, 1866), upon what he called 'The Irish Difficulty.' Across St. George's Channel an idea then largely prevailed that it was useless for Irishmen to bestir themselves, since the ob-

stacles they had to surmount were beyond their strength—that there was some irremovable, though undefined hindrance to improvement, something that would ever render their efforts for advancement hopeless and unavailing. The burden laid upon Ireland, said the idle and discouraged, crushed all energy and paralysed all action. What with the pressure of taxation, the divisions engendered by religious differences, the effect of absenteeism, the flux of emigration, the imperfect drainage of land, the depression caused by bad seasons, the stingy expenditure of public money and the like, it was sheer waste of strength and effort to attempt to defeat such a combination. Against this unmanly and indolent teaching Napier raised his voice in stern protest.

It had been well observed, he said, by Professor Dugald Stewart, that 'to correct an error or to explode a prejudice is often of more essential importance to human happiness than to enlarge the boundaries of science.' Many years had elapsed since he first heard of what had been called 'the Irish difficulty.' It had become a kind of proverb, and had been in some degree looked upon as 'a lion in the path' of their national progress. It had more or less haunted the minds of people in Ireland with the apprehension, that there was some hindrance to improvement, sufficient to paralyse their energies and to nourish and

excuse inaction. The existence of such a feeling was, he argued, fatal to progress.

Let me remind you (said Sir Joseph) that faith in social progress is a guarantee of order as well as of prosperity. There is a divine law that regulates that progress, that subjects society to its imperative requirements, that calls upon us not only to encounter difficulties but to make them subservient to the higher purposes of human life. Under the belief that the common notion of 'the Irish difficulty' is a prejudice that should be exploded, and desirous as I am that the young men of this Association should be encouraged to acquire truthful, temperate, and manly notions as to their rights and duties as citizens of the United Kingdom, as well as to the proper claims that their native country now has and hereafter must have upon them as patriotic Irishmen, I venture to bring before you the subject of 'the Irish difficulty.'

In the divine economy, difficulty is generally designed to be subservient to man's moral discipline. It is used to arouse and stimulate us to exertion, to impress us with a conviction of our dependence on God. On the other hand, it is sometimes the penal consequence of opportunity neglected; of indolence and irregularity long continued.

The fig-tree that was luxuriant in its rank foliage was barren of fruit; the law of its natural condition had been contravened, and it was smitten with a blight under a judicial sentence. A lesson of the deepest wisdom is lodged in the parable. It may be our lot, indeed, to encounter much difficulty which we have not consciously created, but for the manner and the spirit in which we meet it, we cannot but be responsible to God and our neighbour. The Author of our being is the Author of our place in the order of existence, and

having disposed and marshalled us by a divine tactic, not according to our will, but according to His, He has, in and by that disposition, virtually subjected us to act the part which belongs to the place assigned us.

Napier then indulged in a little historical disquisition upon his favourite topic, the existence of the Irish Church. It was about seven hundred years, he said, since Ireland (or rather a part of it) came under the dominion of the monarch of England. Whatever else was doubtful, this was clear, that the Pope of that day was an accomplice in the transaction, and native chiefs, whose name was legion, were accessories after the fact. Long before that event took place, Christianity had, however, found its way into the land. The early Church of Ireland, the Church of St. Patrick, was episcopal and domestic, and it recognised the divine and supreme authority of Holy Scripture. The fact was conclusively established, continued Napier, that

> Our ancient Church existed for several centuries before the English invasion and the papal intrusion, and that those politicians in England who have recently been looking out for a programme for their party, and propose to free Ireland from the Church as 'a badge of conquest,' have by a curious infelicity proscribed the only institution that is emphatically our own. It was the gift of the King of kings; we have it by divine right.

At an early period, proceeded the lecturer, the

Christian religion had been embraced and cherished by pious men in Ireland with great zeal, and that had led to an extensive adoption of the contemplative life, and to the cultivation of learning and the useful arts. Ireland was blessed by the advent of Christianity, and by the learning that was the handmaid of that religion. 'The king's daughter, all glorious within,' had 'her virgin companions.' Science flourished in the seventh and eighth centuries. Then came the Danish invasion and all the desolation of war; then the destruction of the retreats of learning and of piety. That was followed by civil distraction, ignorance, poverty, and barbarism. The Church degenerated and the State became decomposed, so that a pretext was afforded for the intervention of England to restore civil order and religious life.

At that rude period, said Napier, Rome exercised a growing influence over the religious mind of the West. From the imperial city had come much of the learning that had been preserved from barbarian spoil. The papal power was at first used with moderation and sagacity, until it grew into a strength that was difficult to be resisted. Every available instrument was used to increase it. Every turn in the affairs of the countries of Christendom was watched with a view to push forward the papal power to the utmost. The Papacy was a State as well as a Church; it sought to establish

a kingdom emphatically of this world. Its intervention in the affairs of Europe was impartially described by Judge O'Hagan, in a published argument :—'Thus it was that in bad times, in times of turbulence and barbarism, the claims of the Popes to the sovereignty of almost every kingdom in Europe grew up in silence and were admitted and sanctioned by nearly all the ruling powers. It must be quite obvious that *those claims had not their origin in the gospel, nor in the doctrine of the Catholic Church*, but in the state of society, in the mistaken zeal or in the ambition of some Popes ; a zeal and ambition excited and directed by an insatiable avarice, pride, and thirst of power in their followers and dependents.'

So far then (said Napier), we find that the ancient Church of Ireland was national and not papal, and that papal encroachment on the civil government was not scriptural, nor was it in accordance with true Catholic doctrine. We will further find that the ancient constitution of England in the common law of the land, as well as the Church of the Reformation in the Thirty-seventh Article of Religion, maintains that the king is, under God, Supreme Governor of all estates in the realm, whether they be civil or ecclesiastical. St. Peter himself, under the guidance of the Holy Spirit, has admonished us to 'submit ourselves to every ordinance of man for the Lord's sake, whether it be to the king as supreme.'

The vindication of that fundamental doctrine of our Church and State had been difficult and costly ;

it filled up many an important chapter in history. But it was vital to freedom; freedom for every class in the community. The monster difficulty of Ireland had been mainly occasioned by dividing the kingdom against itself. That had been done in disregard of the apostolic injunction. A greater than St. Peter had told them what was the penalty of such division—the fate of a kingdom that became so divided. Yet long before the era of the Reformation there had been stringent laws enacted from time to time in England to restrict papal intervention and prevent encroachment.

Nor, continued Napier, had the struggle against foreign interference been confined to this kingdom. The celebrated Gallican liberties could never be blotted out of European history, and there was not a country in Europe, with the exception of the Roman states, in which the right of the civil authority to restrain papal interference had not been more or less exercised. England was predoomed to be free. The very first clause in Magna Charta was—'First, we have granted to God, and by this our present charter have confirmed for us and our heirs for ever, that the Church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted also and given to all the freemen of our realm, for us and our heirs for ever, these liberties

underwritten, to have and to hold to them and their heirs of us and our heirs for ever.'

How then is it, that under the Crown—the free constitution of England—how is it that Ireland should appear so often as an aggrieved complainant, as if she were let and hindered in the path of progress, or had come under the spell of a blighting and adverse influence? That is a large question. True it is, Ireland is under the same Crown and the same free constitution as Great Britain; true it is, there is civil liberty and equality, and religious freedom is secured by that constitution to all creeds and classes. But how remarkable is the contrast between the historical antecedents of the two countries? The solid foundation of England's prosperity was laid in the work of the Reformation. It was national. It was allied with deep religious feeling, in hearts narrow and exclusive perhaps, but earnest and resolute. It was associated with that indomitable love of freedom that is an instinct of the English people. The policy of Elizabeth, guided by the wisdom of the incomparable Cecil and sustained by the spirit and energy of the nation, upheld the Queen's sovereignty over all estates of the realm, and the canonical Scriptures, and these only, were declared by the Church to be the rule of faith. That was also established by the State. On those fundamental positions was raised the structure of civil and religious liberty.

Civil liberty came in its natural order, as attendant on religious freedom. Niebuhr had observed on the providential course of events in England—the Reformation first, and the Revolution afterwards. The Reformation settled the faith of the Church upon the abiding truth of the sure Word of God, and

the Revolution settled the freedom of the State upon the basis of the Protestant religion. The liberties of England were bound up with the imperishable work of the Reformation.

But how different was the course of events in Ireland? The Anglo-Norman Church of the English Pale had been dissociated from Irish sympathies, and by an intermittent connivance with the Papacy, was kept up as a political convenience for England.

It is too great a subject to discuss minutely at present. My immediate object is to direct attention to this, that the Reformation in Ireland was but limited and partial in its introduction: it was not, as in England, popular and national; that the historical antecedents of the country, and also the course of English government, had tended to array much of the national feeling, and to excite the energy of the papal hostility against the movement. . . . If the native language had been turned to its true account, and the old domestic Church beyond the English Pale had been induced to return to the faith of the period when the simplicity of the Gospel was not clouded or corrupted, if the policy of public instruction commended by Bacon and Cecil had been patiently and perseveringly pursued, the Protestant religion and domestic government might at last have been made acceptable to the great body of the people. What an amount of difficulty could have been banished for ever by such a course of policy?

Napier then proceeded to discuss the question of the Union:

At that date the Roman Catholic had been assured

that when the two kingdoms should be incorporated into one, civil privileges should be extended to him which could not have been granted without distrust whilst Ireland was a separate State and the Protestants were in the minority. Those privileges were afterwards conferred by the Imperial Parliament. In an address to the members of their Church, dated in the year 1830, signed by the twenty-seven Roman Catholic Prelates in Ireland, they said:—'And that Legislature which gave to you *without reserve all the privileges you desired*, is not that Legislature entitled to your reverence and love? We trust that your feelings on this subject are in unison with our own, and that a steady attachment to the constitution and laws of your country, as well as to the person and government of your gracious Sovereign, will be manifest in your entire conduct. . . . *Labour, therefore, in all things to promote the end which the Legislature contemplated in apssing this Bill for your relief, to wit, the pacification and improvement of Ireland. Let religious discord cease; let party feuds and civil dissensions be no more heard of; let rash, unjust, and illegal oaths be not even named amongst you; and if sowers of discord or sedition should attempt to trouble your repose, seek for a safeguard against them in the protection afforded by the law.*

The Protestants of Ireland had in their turn been assured that they would occupy under the Union an improved position. The State, the Church, the Legislature of Ireland, were to be united with the State, the Church, and the Legislature of England. It was an international treaty in its very nature permanent, because on each side there was the giving up of the separate and independent existence of a State, a Legislature, and a National Church. The weaker party could only be effectually secured by the peculiar character of the treaty. It professed to be based upon the union of the two national

Churches as the fundamental article of the treaty. They had long before been one in doctrine, discipline, and ceremony, with the same Articles of Religion, the same ritual, the same Holy Scriptures—the same Supreme Governor, the same relation to the mixed monarchy and to the settled constitution of England. In State documents, for centuries before, they had been occasionally described by the collective name of 'this Church of England and Ireland.'

Yet there were two distinct national Churches of the two kingdoms at the time of the Union, and the effect of the Act of Union was to incorporate them into the one National and United Church of England and Ireland. It was a union and incorporation of the two separate establishments, by which the Protestants of Ireland were assured that they would be identified with the property and population of the empire, and placed on such a strong and natural foundation as to be above every apprehension and fear from adverse interest. In making the union of the national Churches the basis of the union of the kingdoms, they would find that the foundation was well and truly laid in accordance with the soundest views of enlightened policy. Edmund Burke looked to the Church in Ireland 'as a great link towards holding fast the connection of Religion with the State, and preserving the connection of England and Ireland.' Indeed the union of the two national Churches was essential to the completion and the permanence of the union of the two States under the mixed monarchy and the free constitution of England, as finally secured by the Act of Settlement.

Such, then, having been the character of the Union, whatever tends to prevent the treaty from being fully realised is a difficulty that ought to be removed. I have stated in Parliament what I still hold to be a sound opinion, that it is much to be regretted that all the questions that

were involved in the union were not closed and settled at the first, and both Protestants and Roman Catholics in Ireland at once put in the position which they had a right to expect under the arrangement, as citizens of the United Kingdom. I can answer for the Protestants of Ireland, that whatever be the difficulty of making good the explicit assurance given to them of a complete identity of privilege with their Protestant brethren in England, it is a difficulty which they will gladly help to remove. Whatever be the peculiarities of their condition in Ireland, however they have been brought into a position of comparative disadvantage, I hold it to be clear and certain that the destiny of the great Protestant institutions of the United Kingdom as now secured (the Church and the Crown), is one and the same in the two countries. The truest Protestant in either country is the steadfast friend of that living progress that is the expression of a healthy energy in society. He will abide by scriptural truth, and desire to spread its influence; he will abide by constitutional freedom, and preserve it unimpaired. He will not forget that our Church is not only a keeper and a witness of Holy Writ, but a helpmeet for a free State that is pledged to be the guardian of the rights and privileges of every loyal subject to the Queen.

As part of the National Church of England and Ireland, the Irish branch has, I freely admit, a difficult and a responsible duty to perform in the circumstances in which she is providentially placed. She has to diffuse the equities and reflect the genial influence of the British constitution with which she is indissolubly connected, and she has to do that public service without any compromise of those higher duties for the due discharge of which she is directly responsible to her Lord and Master. . . . The aspect of the Church as the national Church, and of her ministers as public servants, is

not hidden from the observation of the people in many districts, where in the rector of the parish the poor man finds a considerate and kindly friend, and the rich man meets an intelligent companion. Where the rights of property are not forgotten and absenteeism has but ill provided for the claims of the tenantry upon the friendly counsel and the considerate regards of the proprietor, the presence of an educated and kind-hearted minister of Christ, impressed with the highest sense of duty to God and his neighbour, bound by his ordination vow 'to maintain and set forth quietness, peace, and love,' and imbued with the sanctifying influences of family life in a Christian household, is beyond all question a benefit (if not a blessing) to all sorts and conditions of men around him. Such a man is 'a light of the world, holding forth the word of life.' Surrounding darkness can never be a sufficient plea for extinguishing a solitary light.

The old customs of Ireland tended to confine the useful arts which require skilled labour, and those arts which depend to a certain extent on natural genius, to certain races in succession. And although that was sufficient to preserve them from total decay, it was an obstacle to general improvement, and made the people cling tenaciously to their own old-fashioned ways and habits of life. That Irish peculiarity, and the influence of clanship by which the people were ever led to look for and expect protection and guidance, has made it doubly important to have them brought everywhere and in every practicable form under the influences of civilisation.

I was much pleased to find that in the volume which Lord Brougham[1] has recently published on the British

[1] So highly did Lord Brougham estimate the scholarship and talents of Napier, that he wished to entrust to his hands the revision of the chapter on the Church, should a new edition of his work on the British Constitution be required.

Constitution—the result of early study and an experience almost unequalled for the extent of enlightened and intelligent observation—he says: 'In Ireland, where the position of the clergy is exceedingly difficult, from the great preponderance in number of the Roman Catholics and the influence of the priesthood, the good conduct of the clergy is exemplary, although they are almost unavoidably drawn occasionally into party feuds; but they are a contrast, and should be an example, to their brethren of the Romanist persuasion.'

The solution of the 'Irish difficulty,' said Napier, was no very arduous or impossible matter. Let religious dissensions cease, suppress all organised sedition against constituted authority, enlighten ignorance, and imitate the self-reliance, intelligence, and industry of the English people, and it would soon be found that there was no more an Irish difficulty than an English one.

The remedies for difficulty are to be found in the acquisition of knowledge and in the performance of duty. We are not to revenge on Government or on society the inflictions which we have brought down upon ourselves. No Government, no power of Parliament, can repeal or modify one provision in that code which God has stereotyped. To struggle against laws that are the expression of the Divine Will is a hopeless, if not a sinful effort. To study and submit, to know and to apply, to see wherein our strength and our capabilities consist, to accommodate ourselves to the conditions of the age in which we live and the circumstances in which we are placed, is at once our wisdom and our duty. We have a long lee-way to pull up, but if we

read the past faithfully we may enter on the future hopefully. There is a proverb that I learned in the North in my younger days—'a stout heart to a stiff hill.'

There is no real force of character to be found, no proper self-respect can exist, where the moral element is deficient or depreciated; there cannot be a healthy public opinion without general intelligence and moral liberty. We are, I admit, sometimes ungenerously and, I would add, unwisely dealt with by English journals, in their wholesale and indiscriminate sneers and censures. There are amongst us those who are proudly conscious of the injustice of that treatment. We are burthened with the entire pressure of what ought to be diffused over past centuries of English policy and past periods of Irish strife. But on the other hand, we have not, as a people, acquired that conscious self-respect and manly self-reliance that always command the respect of others.

We have not mutual confidence; we are wanting in true patriotic feeling; we have not a protective public opinion, founded on moral manliness and cultivated intelligence. We busy ourselves so much about the opinions of our neighbour, that we sometimes overlook our own practical duties. We are more occupied about our contentious differences than in an honest effort at united action for the common good of our country.

Look at the matter plainly. What real impediment is there in the way of our advancing in the path of such prosperity as is allotted to our climate and soil, and to the capabilities of our people?

I have gone over the evidence given before Colonel Dunne's Committee in the last Session of Parliament, the most recent repository of Irish grievances. The pressure of taxation, the effect of absenteeism, the imperfect drainage of land, the flux of emigration, the depression caused by three bad seasons,

the changes going on in the small farm system and in the uses of land, and the stingy expenditure of public money in Ireland as compared with the profuse outlay in England—these, I think, constitute in the main the sum and substance of Irish complaint. I do not say that it is exact, nor do I say that it is exhaustive. But what is the good of moaning over grievances? We get up deputations, but what is their value?

> Behold, we know not anything;
> I can but trust that good shall fall
> At last—far off—at last, to all,
> And every winter change to spring.
> So runs my dream; but what am I?
> An infant crying in the night;
> An infant crying for the light;
> And with no language but a cry.

Nearly three hundred years ago Lord Bacon made this profound and noble appeal:—'And surely when I set before me the condition of these times, from the height of men's wits; the excellent monuments of ancient writers, which as so many great lights, shine before us; the art of printing; the traversed bosom of the ocean and the world; the leisure wherewith the civilised world abounds, and the inseparable quality that attends time itself, which is ever more and more to disclose truth; I cannot but be raised to the persuasion that the learning of this third period of time, blessed beyond former times by sacred and divinely inspired religion, will far surpass the learning of Greece and Rome, if men will but well and wisely know their own strength and weakness, and instead of tearing and rending one another with contradictions, and in a civil rage bearing arms and waging war against themselves, will conclude a peace, and with joint forces direct their strength against Nature herself, and take her high towers and dismantle her fortified holds, and thus enlarge

the borders of man's dominion so far as Almighty God of His goodness shall permit.' Young men of this association, let me add one word emphatically to you before I close. Let me press upon you, as the hope of the rising generation, the sin of every form of strife that tends to divide your country against itself. I have not sought to entangle you in any of the controverted questions on which difference of opinion prevails, nor have I offered a specific solution of any. I have thought it more for your moral benefit to suggest principles by which you should be guided in forming your own unbiassed and independent judgments. Above all, I have sought to impress you with an abhorrence of every form of factious strife and division. I have told you to be self-reliant. Be so, in humble dependence on God, and not unmindful of your duty to your neighbour. 'The thing to be lamented' (says Butler) 'is, not that men have so great a regard to their own good or interest in the present world, for they have not enough; *but that they have so little to the good of others.* And this seems plainly owing to their being so much engaged in the gratification of particular passions unfriendly to benevolence, and which happen to be most prevalent in them, much more than to self-love.'

Our Blessed Lord, in one of the most beautiful of His parables, has reminded us

> That we have all of us one human heart.

He has taught us that alien race and hostile creed neither quench nor repel 'the charity that suffereth long and is kind.'

> The charities that soothe, and heal and bless,
> Are scattered at the feet of man like flowers.
> The generous inclination, the just rule,
> Kind wishes and good actions and pure thoughts—
> No mystery is here.

It is emphatically the time to bring the pure principles and the divine energy of Christianity to bear, as much as in our power, on the working of society, in the household, in the association, in all the actions and the intercourse of our daily life. Let heresies of duty be regarded as not less opposed to the divine rule of life than heresies of opinion to the divine rule of faith. Above all, remember that the highest subject for your understanding, the noblest object of your affections, He in whom the divine and the human meet in the fulness of a mysterious perfection, our Great Exemplar, triumphant over every difficulty, to whom 'all power is given in heaven and in earth'—King of kings and Lord of lords, the greatest and mightiest of beings—was the gentlest and the kindest and the best.

Within the last few years attempts have been made to solve the 'Irish difficulty' after a different fashion to that suggested by Napier. We have yet to learn that the means employed have so far been successful as to justify us in condemning the tact and wisdom contained in this lecture. Has the abolition of the Irish Church led to the advantages prophesied by the advocates of that measure, or has it but intensified the evils complained of?

At this time Mr. Monsell was agitating to alter the Oath required to be taken by Roman Catholic members in Parliament, and in its stead to substitute a simple oath of allegiance. Napier opposed the change.

You will soon have (he writes to James Whiteside) the

question of the Oaths, and if you look to the incidents of the late election you will find that there are some of our men committed to the seductive scheme of one oath, i.e. in effect to give up the old national oath of supremacy, the very corner-stone of the constitution. I know that there are many of our men who will contend to the death for the preservation of the oath, but the party will be divided, the Liberals will chuckle over us, and after one or two divisions in our favour in the House of Lords, we shall at last see the concession made and Protestant confidence and sympathy shaken. But I may be drawing too gloomy a picture, and yet, if our leaders do not convene their party and lay down some distinct programme of policy by which, as a party, we are prepared firmly to abide, I see nothing before us but a gradual loosening of our hold upon the best part of the Protestant middle class in England and Ireland. Without their sympathy and cordial support we can do nothing that we can count as a success.

I suspect that so long as Palmerston remains no change of ministerial policy will be made or required. After he departs or withdraws there will be such a measure of Reform proposed as may meet the exigency of the time in the mildest practicable form. When I find such men as Kinnaird voting for Mill, whom he must believe to be a kind of spurious infidel, I see the lengths to which Whiggery can carry its votaries. I think Palmerston will hold on as long as life remains and strength enables. I met Lord Eversley here at the Horticultural Show. He is strongly in favour of one oath. He says that fighting for outposts is a waste of strength and is an advantage to the aggressive party, and he reminded me how often he gave me the hint of not fighting the Church battle on such questions as that of Ministers' money. He says that at this time many excellent men, who will stand firm in defence of the citadel, look upon the skirmishing for

defence of outposts as a waste of power, and that every occasion on which we show division in our party weakens its influence and damages its prestige. On the other hand Stapleton says that the abandonment of what are called outposts is regarded as political cowardice, and when the outpost is a fortification erected with a view to defence and protection, it is for the time in reality a citadel. The result of all is that in my judgment there should be a conference of leaders, and afterwards a clear understanding with all the members of our party as to the line of action and the programme of policy. If it is left to haphazard, as of late, then it is not difficult to predict the consequences. When Gladstone's time comes it may be necessary to change tactics, and if he is compelled to put himself under Bright and Co. then we may hope for a reinforcement from such of the Whigs as are not rotted into Radicals.

The course Napier had predicted as to the fate of this measure came to pass. Mr. Monsell introduced his motion to alter the oath. He proposed to abolish the clause abjuring the doctrine that princes excommunicated or deposed by the Pope might be deposed or murdered by their subjects; the clause testifying that the declaration was made in its plain and ordinary sense; the clause disclaiming any intention to subvert the Established Church; and the clause swearing never to disturb or weaken the Protestant religion or the Protestant Government in the United Kingdom. In the place of these clauses he proposed to substitute the simple oath of supremacy. A

debate ensued in which the members of the Government supported the measure. As Napier had foreshadowed, the Conservatives were divided in the course they pursued, some approving the substitution whilst others opposed it; the result was, however, that the Bill passed through the Commons. It was now sent up to the Lords, but was rejected by a majority of twenty-one.

The next session the measure was again brought forward, but this time by a member of the Government. In introducing the Bill, Sir George Grey, the Home Secretary, thought the time had now arrived when one general oath should be taken by all members of Parliament indifferently. It was no longer necessary, he said, to maintain the portion of the oath relating to abjuration or supremacy or the maintenance of the Established Church, as the existing law was quite strong enough for the purpose. He therefore proposed that the present oath should be repealed, and that the following short form of oath be substituted:—'I, A.B., do swear that I will faithfully bear true allegiance to her Majesty Queen Victoria, and defend her to the best of my power against all conspiracies whatever which may be made against her power, crown, or dignity.' With the exception on the part of one or two Conservatives, no opposition was raised

to the alteration. Mr. Disraeli proposed this amendment, which was accepted: 'And I do faithfully promise to maintain, support, and defend the succession to the Crown, as the same stands limited and settled by an Act passed in the reign of King William III., intituled "An Act for the further limitation of the Crown and better securing the rights and liberties of the subject."' These words were added to the oath of allegiance. The Bill thus amended passed through the House of Commons, and, unlike its predecessor, was accepted by the Upper House and became law.

Napier was in Ireland whilst the Bill was passing through Committee. During the period of discussion he had come to the conclusion, whatever his private opinions might still be on the subject, that under the present circumstances political oaths were valueless. He was somewhat of the same mind as Mr. Speaker Onslow.

I cannot help observing (said that faithful servant of the House in the eighteenth century) of what little use to a Government the imposition of oaths has ever been. A Government is never secure of the hearts of the people but from the justice of it, and the justice of it is generally a real security. . . . When men habituate themselves to swear what they do not understand, they will easily be brought to forswear themselves in what they do understand. The like danger is from the frequency of them, which always takes off from the awe of them, and consequently their force. In my opinion no oaths should be appointed but in judicial matters.

Napier wrote to Mr. Disraeli giving his views upon the subject.

I am glad to see (he says, March 9, 1866) that you are over the difficulty as to the Oaths Bill. The feeling has been very prevalent of late that political oaths are valueless and ought to be got rid of as much as possible. It would be in the highest degree inexpedient to prolong the controversy where we must soon have to succumb, whilst in the meantime we would give the enemy favourable occasions of combining all the strength at their command against our half-and-half opposition. We should thus have our weakness exposed and the other party their strength exhibited—I mean on this question. The light in which I view the Bill is simply to get rid of political oaths of a special or separate kind. In this view the ordinary oath of allegiance is the best for all. This implies undivided allegiance to the Queen as supreme governor *in foro exteriori*.

If you can get words introduced to include the successors according to the Act of Settlement, well and good. But I think you will fail in getting words as to the supremacy that can be satisfactory. Observe, the Roman Catholic oath falls short of the full doctrine, and if you have any limited view of the supremacy in a general oath you may thereby weaken the general law. I should therefore much prefer to have a proviso added after the pattern of that which the Duke of Wellington introduced into the 11 and 12 Vict. c. 108, s. 3, taking the words there as to the supremacy, and adding like words as to the settlement of property and of the Established Church. See 10 Geo. IV. c. 7, ss. 2 and 24. In this form the new Act on the face of it would be simply to regulate political oaths by simplifying the form and reducing the number of oaths, whilst the general law as to the important

constitutional principles for the security of which special oaths had been required would be expressly saved.

Excuse this suggestion from an old comrade. I think by acting upon it you may remove the scruples, or at least appease the murmuring, of well-meaning men who think that these old defences have any real value at this time. We had to fight the battle of Ministers' money again and again, but we now feel in Ireland that *the loss has been a gain.* This class of issues is the very worst to fight the real battle upon.

The 'real battle' was, as Napier well knew, the maintenance of the Irish Church, and any course which led to strength being wasted on side issues was to be deprecated.

CHAPTER VIII.

PASSED OVER.

Call you that backing of your friends? A plague upon such backing.
Henry IV., Part I. act ii. sc. 4.

At the death of Lord Palmerston, which occurred towards the close of the year 1865, Lord John Russell succeeded to the post of Prime Minister. His reign of office, however, owing to the opposition encountered by the measure of parliamentary reform introduced by Mr. Gladstone, lasted but a few months, and in the summer of 1866 Lord Derby was called upon to form his third administration. Napier now confidently expected to be reappointed to his old place in the Court of Chancery, and once more to be entrusted with the Seals. To his great disappointment intrigues were set on foot which resulted in barring his path to promotion.

Upon the accession to power of every new Government political adherence has to be rewarded, and it often becomes a matter of great difficulty and embarrassment for a minister to satisfy the

claims of those who have served him well. Napier was no longer in the House of Commons, and therefore, for all purposes of practical parliamentary warfare, since he could not swell the division list his name and influence were comparatively useless. Others who were among the actual combatants of the party, and who now looked for their reward, had to be provided for; thus, before the pressure of their claims, Napier was compelled to stand aside. In the struggle for high office in Ireland cabals and complications had been freely entered into, the result ending in the promotion of Mr. Blackburne, then, as we know, Lord Justice of Appeal, to the office of Lord Chancellor, and of Mr. Abraham Brewster, one of the most distinguished members of the Irish bar, and who afterwards held the Seals, to the vacated post in the Court of Appeal.

To justify their conduct on this occasion, the opponents of Napier, who considered that he had been sufficiently rewarded in the past, and should now make way for less successful men, brought forward as the ostensible reason for their hostility an infirmity to which the ex-Lord Chancellor had long been subject. When quite a young man Napier, whilst staying at his favourite Bray, caught a severe chill, which, owing to the incompetent treatment of a local medical practitioner, flew to his head, and

ended by affecting his hearing. The mischief was but slight, for it was only at the close of his career that Napier could be pronounced actually deaf, nor had it ever been asserted that the evil had interfered with his duties when Lord Chancellor; but when malice wishes to defend her crooked courses there is never very much difficulty, either by imagining or exaggerating some ill, in discovering an excuse for her spite. Napier was now accused of being so deaf that it would be wicked to all suitors to raise him to the bench. In the opinion of those who knew him best at this time, there was not the slightest ground for supposing that he was in any way incapable of efficiently discharging judicial duties.

Upon the strength of this judgment therefore, Lord Derby, when the Lord Justiceship of Appeal was rendered vacant by the promotion of Mr. Blackburne, had offered it in the first instance to Napier, who had gladly accepted the post. It was only when the subject of this biography saw that by taking his seat in the Appeal Court he might, through the malevolence of his foes, become a source of embarrassment to his political chief, that he resolved, in the most honourable manner, to sink all considerations of self and tender his resignation. Upon his resignation the appointment was, as we have said, conferred upon Mr. Brewster. Brewster was not friendly to Napier,

and it would appear that there was as much opposition to his promotion as to that of his rival. Whiteside was also manœuvring at this time for the Chancellorship.

The story of this intrigue is fully told by the following correspondence.

The Lord Lieutenant [the Marquis of Abercorn] (writes Napier, July 10, 1866, from Dublin to his wife who was then away on a visit) came to-day to be sworn in, and leaves to-night. I had a special conference with him. I have been tormented about the place. The malice and envy of foes and the treachery of those who ought to be friends have disgusted me. In his letter to Blackburne, Lord Derby stated his intention of appointing me to be Lord Justice, and on Friday evening Cairns came and notified the same. All seemed smooth until Tuesday morning, when I got a very friendly letter from Lord Derby and a scheming letter from Lord Naas. Lord Derby's was to the effect that he suggested for my own consideration if I had any doubt about my hearing for the place of Lord Justice, I might speak to some of my friends before finally accepting. But he left the matter with myself in the most kind and honourable terms. I found that on Monday night the appointment had been attacked and defended in the House of Commons, and a very good reply made by Disraeli, treating the appointment as made. I wrote a good letter, assuring Lord Derby that I had reason to believe I should be quite competent, and that all my friends thought it was the fit place for me. I also suggested that I had reason to believe that the objections were not disinterested. I saw no reason whatsoever for declining his kind offer, which I accepted. I also answered Naas more in

detail. I got a reply yesterday suggesting that I should consult Blackburne, which I did, and got a most unqualified approval from him. This morning I got another letter from Naas to say that there were several of our own members amongst the remonstrants, that they feared another motion, and might be beaten upon it, and begging me to see Lord Abercorn. Lord A. first saw Blackburne, who I presume said what he told me yesterday.

His lordship was very kind and spoke to me very kindly, said the attack was unfair, but that Naas was afraid of our own men if a motion were made, and that it would relieve the Government of a difficulty if I gave up the appointment. I told him frankly, that having accepted it, and there being no ground for my giving it up but the threat of a motion, that I felt it would be humiliating to me to succumb to the set who had got up this cry against me.

I wrote a prompt and spirited letter to Lord Derby; I have also written to Cairns and to Naas to say I cannot now withdraw without a sacrifice of self-respect that no honourable man should be required to make. I suspect when they find that I am firm all will go smooth, but I am resolved not to yield. They have no right to put me in so false a position. Lord Derby could not recede without dishonour, and I could not give up without discredit. Lord Abercorn returns to-night and will see Lord Derby to-morrow, and when he reports Blackburne's opinion and my resolve, I hope all may soon be settled. At all events I shall try to do what is honourable and right. Whiteside has been acting with spirit on my behalf, so I hope to weather this gale; but I leave all in the good hands of Him who has ever been gracious and merciful to me.

In the next letter we reach the second stage in

the proceedings; the post had been offered and had been gladly accepted.

It was well (writes Napier to his wife, July 15) I did not leave on Friday. In the morning there came to me a letter from Colonel Taylor to say that Lord Derby had telegraphed to Sir Hugh Cairns to come to me direct from Belfast after his election on Friday, and there came a packet addressed to Sir Hugh to my care here enclosing a letter from Lord Derby. Meanwhile the Lord Justice of Appeal [Blackburne] got a letter direct from Lord Derby to request him to take the Chancellorship, and that he intended his 'old and valued friend Napier to be Lord Justice.' He was asked to reply by telegram, which he did, accepting the offer. Edward B. [the son of Mr. Blackburne] called in the forenoon to tell me the news. The train from Belfast came in at six; I sent the brougham with Willy [his eldest son] to meet Sir Hugh, who came here and was very friendly. The letter he had from Lord Derby said that 'they found the objections to Brewster were so strong that they adopted a solution which was suggested by Napier, and of which they all approved,' to get Blackburne to take the Chancellorship, to put me in B.'s place, and then to get Whiteside into the place of Chief Justice. Cairns was requested to complete the arrangement if he could. So when he found that Blackburne had been written to and had accepted, it was not necessary for him to delay. He told me that they all knew on the other side that Blackburne would not have continued as Lord Justice of Appeal after the autumn [owing to his advanced age], and that the place was at once allocated to me as the most suitable and desirable, and that he thought the arrangement now made was under the circumstances the best that could be effected.

And so, as he too confidently thought, Napier was Lord Justice of Appeal.

It is the very place (he gleefully writes) of all others I wished for. I get an addition of 1,000*l.* a year—I get the highest *permanent* rank, taking precedence of peers during my life. . . . I had a letter from Lord Naas this morning saying that he had just seen Cairns, and that they are quite satisfied with the new arrangement. I saw Blackburne yesterday. He is in great spirits, and expresses his gratification in having me as Lord Justice.

In the third letter we read why this coveted post, after having been accepted, was resigned. Napier had come up to London, and writes to his wife from his usual haunt when in town, the National Club. The letter is dated July 29.

I have had such a week of anxiety, I am glad it is over. I had a most kindly interview with Lord Derby. He was quite prepared to stand by me, but said he must not conceal from me that it might seriously embarrass the Government in the House of Commons. Keogh and the Brewster clique had been working through Delane of the 'Times'; the opposition are glad of any pretext for causing embarrassment, and I found a good deal of uneasiness in our own party as to the result of a hostile motion to censure my appointment on account of my defective hearing. Lord Derby suggested that I should meet Lord Chelmsford, Cairns, and George Hamilton to discuss the whole matter, and that we both might act on their joint opinion. Nothing could be fairer. I met them yesterday evening. We discussed the matter in all its

bearings, and the result was that they all agreed it was better that I should not retain the appointment. They say that the impression prevails to such an extent that my deafness is greater than is seemly in a judge in so high a position, that any motion made might get such a support as would damage the Government. Cairns most unequivocally declared his own opinion to be that I would discharge the duties with ability and efficiency, but he said the impression to the contrary by reason of my supposed deafness was such as was most difficult to displace. Nothing could be more kindly and affectionate than he was in his manner, and he suggested that I should write a letter which might be read in both Houses of Parliament, which would place me higher than ever in English opinion. . . . Lord Chelmsford said he had no doubt that Lord Derby would confer some high mark of distinction on me, such as a baronetcy. He evidently means to suggest it to Lord Derby, whom I shall see again to-morrow.

I am quite reconciled, for I am sure I should have been so watched and worried, so misrepresented and maligned, if I had kept the office, that my life would have been made miserable. Now that the matter is settled I am at ease, for I was kept in painful anxiety for upwards of a fortnight. But I am now fortified by the opinion of Blackburne, Lord Chelmsford, Cairns, George Hamilton, Tennent, and J. Warren, that I should not require Lord Derby to fight the matter in the House of Commons. The whole affair grew out of the opposition of Whiteside to Brewster. If he had been Chancellor and Blackburne afterwards resigned, there would have been no objection to my appointment. So I must submit with a good grace.

In accordance with the suggestion of Sir Hugh

Cairns, Napier wrote the following letter to Lord Derby, which was read in the House of Commons two days after its despatch, in answer to a question put by an Irish member whether the appointment of Napier to the Appeal Court was to be confirmed.

1 Whitehall Gardens, July 28, 1866.

My dear Lord Derby,—When you were pleased to offer me the office of Lord Justice of Appeal in Ireland, I was conscious of my partial defect of hearing, but not having experienced any difficulty from that defect when I presided as Lord Chancellor in the Court of Appeal, and having been assured by those on whom I could implicitly rely that it had not since increased, I accepted the offer which you made to me. I find, however, that an impression has been created in the public mind that the defect in question exists to an extent which might interfere with the satisfactory discharge of my judicial duties. I believe the impression to be mistaken. Competent and distinguished friends who have had the best opportunity of judging are of this opinion. But when I consider how important it is that the administration of justice should be above all possible exception, and how desirable it is that the nomination to so high an office should not be open to a moment's cavil, I think I best fulfil the duty which I owe to the public, to your lordship, and to myself, by withdrawing my acceptance of the office.

Believe me to be, my dear Lord Derby,

Most sincerely yours,

Earl of Derby, K.G., &c. JOSEPH NAPIER.

Subsequent events in the life of this disinterested and high-minded man prove how empty and ground-

less were the reasons adduced on this occasion to deprive him of office. In 1868, but two years after all this clamour, Napier was sworn of the Privy Council in England, and came up to London to take his seat on the Judicial Committee; whilst we find him in 1874, when advancing age would have intensified the infirmity if it ever existed to the extent alleged by his enemies, appointed Chief Commissioner, having the custody of the Great Seal in Ireland, and head of the Irish Court of Appeal. It is impossible in the face of such evidence to arrive at any other conclusion than that, had it not been for the intrigues of party, Napier would have been confirmed in his office as Lord Justice of Appeal, and not have been called upon to make the sacrifice which malice exacted. Even had his hearing been as defective as his opponents stated, it need not have incapacitated him from deciding causes in a Court of Appeal. I take the following extract from a legal journal written at this time:[1]

It is objected, not unreasonably, that Lord Justice Napier's infirmity unfits him for his position. We are inclined, however, to dissent from that view of the case. We do not doubt that deafness, even much less in degree than Mr. Napier's, would be a complete disqualification for a judge of first instance, at any rate in a common law court; but in a

[1] *Solicitor's Journal*, July 28, 1866.

court of appeal, where *vivâ voce* evidence is, from the nature of the case, out of the question, and the judge has only to deal with written and printed documents, the same objection does not apply. A very simple arrangement is sufficient to enable the judge to hear the arguments of counsel without any very great difficulty, and that once provided for, the whole objection becomes futile. For several years after Mr. Justice Patteson's deafness had been such as to enforce his retirement from the Queen's Bench, he continued to act, with great efficiency, in the Judicial Committee of the Privy Council. The same observation may now be made with respect to the services of Sir Edward Vaughan Williams. Vice-Chancellor Kindersley is at least as deaf as Lord Justice Napier, and yet we believe it to be well known that the Treasury, in 1864, came to the conclusion that this was not an infirmity justifying his retirement on a pension, although the duties of his office are much more onerous than those to be performed by a Lord Justice of Appeal. If the new appointments are not the best that might have been made, they are at any rate a change in the right direction.

Two letters contributed to the 'Daily Express,' an Irish Tory newspaper, in reply to certain attacks made upon Napier by the Dublin 'Evening Mail,' also throw light upon this intrigue.

To the Editor of the 'Daily Express,'

Sir,—As the 'Mail' is now sending out articles in its usual virulent style, six times a week, against Chancellor Blackburne and Chief Justice of Appeal Napier, on the pretended ground that other lawyers would be more liked by the Liberal party, and therefore more useful to Lord Derby

in his attempt to make his Government as broad as possible, and as these articles are purposely put into the London press in order to damage Lord Derby's Government of Ireland unless he will yield to them, it is only common truth and fairness to tell the good public in England—always liable to be misled in Irish matters—that the whole cause of the 'Mail's' attacks, and of the Ultra-Tory Purple-Orange Pharisees of whom it professes to be the sacred organ, against Mr. Napier is, that for many years he has made liberal, moderate, and most useful attempts to settle the differences between the Irish Church and the Irish Government about National Education, and between Irish landlords and tenants about the letting of farms.

Perhaps no newspaper ever yet so much injured the party which it professes to serve as the 'Dublin Evening Mail' has for many years injured the party of which Lord Derby is the leader, by its attempts still, in the second half of the nineteenth century, to keep up in Ireland the bitter anti-Reform Act and anti-Roman Catholic Relief Act politics of fifty years ago. Yet this paper, after attacking Mr. Napier for many years, because on the above two great questions he dared to think for himself in a liberal manner, now, from spite and malice against him, attacks Mr. Napier as not liberal enough, and suggests, as if the organ of the Liberal party which it has been always abusing, that they would prefer a man of any political principles, or no political principles, to Mr. Napier.

I am only a Liberal spectator of the present game, and hope that some statesman, Liberal but not a Democrat, with common sense if not with eloquence, will be soon chosen to lead the great party formed by Sir R. Peel and Lord Palmerston, and never stronger than now, and only broken by its just want of confidence in a minister who has been a

treacherous colleague to Lord Aberdeen and Lord Palmerston, a place-hunter all his life, of boundless appetite but weak ability. Till this choice is made, and the great Liberal measures again taken up, every man of good feeling and common sense must wish to see the public administration well served by Lord Derby, and such low attacks as the 'Mail's' against his chief officers exposed and condemned.

Your obedient servant,

J. G. V. PORTER.

Belleisle, July 25, 1866.

To the Editor of the 'Daily Express.'

Sir,—May I be permitted to express to you the great mortification which is felt by many, on reading the sustained attacks made on Mr. Napier by some of our metropolitan newspapers?

No man can question the ability and influence of such newspapers. As to the 'Evening Mail,' I am its old friend and daily recipient; and the more I remember its years of bygone services, the more I grieve over its stereotyped severities employed daily on one theme. When I look back on Mr. Napier's public and private life (both well known to me), I am the more grieved that one such as he should suffer assaults from a quarter wherein I would naturally have expected he would have found friendship and support.

Surely it will be admitted by men of impartial and generous modes of thinking, that Mr. Napier is a lawyer of recognised ability—one of vast experience, and of imperial reputation. Did he not win his way industriously, honourably, and successfully? As a representative of our University, he was the chosen leader of the Conservative clergy and Bar of Ireland; as Lord Chancellor, were not his decisions unquestioned; and now, as Lord Justice of Appeal, does he not

bring to his court an amount of attainments, ability, and experience possessed by few indeed of our modern jurists? In his professional success every struggling, honest, and rising barrister is, or ought to be, concerned. From such Mr. Napier is entitled to receive honour and esteem, as holding out to them an example of what may be attained in their honourable profession.

In all the eloquent and trenchant articles of the metropolitan press, the main charge brought against Mr. Napier is his deafness. It is well known to those friends who enjoy the privilege of intercourse with him that this deafness is inconsiderable, and in no wise interferes with the enjoyment of conversation. Neither in the Senate nor in the Chancellor's Court did he fail to hear, and to show practically that he ever did so. In the Court of Appeal the cases are printed beforehand; there is no colloquial discussion, as in debating motions in the Court of Chancery; there are no witnesses to hear, and ready help is at hand from one or two judges whom Mr. Napier is entitled to summon to his side. Nor is his deafness increasing. Would to God that a simple statement like the present would tend to, at least, a diminution of wrath! I have had communications with many clergymen, with Queen's Counsel, &c., and all heartily deplore the continuance of these attacks, which must eventually prove injurious to the Conservative cause.

Yours respectfully,

THOMAS DREW.

Seaford, Co. Down, July 25, 1866.

Of all the letters and papers, however, before me upon this subject, the one from Sir John Taylor Coleridge, formerly one of the judges of the Court of Queen's Bench, and father of the present Lord

Coleridge, is the most just and expressive in its censure of the action of the Government.

My dear Napier,—I cannot help sending you a line of condolence and congratulation on the recognition of your claims and your non-acceptance of office, which the papers inform me of, and they only. It was most fitting that you should be offered the Appeal Court, and for my part I believe you could have discharged the duty admirably if you had consented to accept the seat there—and the manner of the attack on you was scandalous. Still your declining it puts you on higher grounds, and, feeling as an old friend for you, I rejoice in the course you have pursued; a few years hence the appointment must have come to an end, but your declining it will be a lifelong source of self-gratulation and honest pride, and will not be forgotten.

Looking at the *whole* matter quietly, two things are clear to me—one that you were sacrificed to other cases, which, whatever explanation they may receive on fuller knowledge of the facts, seemed to raise fair objections; the other the wonderful forbearance of *your* members in regard to the glass windows in which we lived here. Pollock, Lushington, and Knight-Bruce formed a trio quite equal to any that could be objected to on your side of the water, and yet not a word was said. I must say the Irish conduct was the more dignified and gentlemanly of the two, and shone by contrast.

I am far from saying the three I have named above do not retain their intellect and memory wonderfully well; but their strength is impaired and their power of sustained attention, and they *sleep*—and very advanced age is in itself a considerable objection to the retention of judicial office, indeed any office. I am glad Pollock is gone (I don't like

the baronetcy administered as a plaster). I wish the two others would resign, for their own sakes, much as I liked to work with them.

I need not be uneasy about your happy and useful employment of your leisure hours. God grant you many years of dignified and useful and happy retirement.

Yours most truly,

Heath Court, Ottery S. Mary:
August 3, 1866.

J. T. COLERIDGE.

If Napier knew how to disregard his own interests, he was ever solicitous after those of his friends, and when he had patronage to bestow no one was more impartial and considerate in its disposal. When he had nothing in his gift his pen and voice were constantly employed in the right quarter in urging the claims of the truly deserving. At this very time when he himself had been passed over he was busy in recommending one for whom he had a high regard for promotion. The office of Provost of Trinity College had fallen vacant, and two candidates were in the field—Dr. Lloyd, the Vice-Provost, and Dr. Todd, one of the senior Fellows. Napier knew both men and was personally attached to both, but to fill the post of Provost he did not hesitate to declare his preference for Dr. Lloyd—a preference which was shared by Lord Rosse, the Chancellor of the University, the Archbishop of Dublin, and others most competent to judge of the merits of the two rivals. Napier wrote to Lord Derby recommending that, on account of the

interests of the College as well as of the credit of the Conservative administration, the appointment should be made out in favour of the Vice-Provost.

Lloyd (he writes) is a singularly modest man, but has made a great reputation in science and is a generally accomplished scholar. He is moderate but firm in his opinions, has always given an uncompromising support to your administration, and he has won the confidence and esteem of the best friends of the Church as well as of the most remarkable men of science. He is in all respects eminently qualified for the office of Provost. . . . Nothing could induce me to intervene but the strong and decided conviction that on public grounds the passing over such a man as Lloyd, who stands so high in public estimation, and the setting up of Dr. Todd, who, although highly respectable, does not possess the confidence of the public, might not only damage the College in its prestige, but also inflict a heavy blow on the Conservative Government. . . . I have no personal interest in the matter whatsoever beyond what I feel in the welfare of the College and the credit of your administration. In my present retirement, however, I can see things without any undue bias.

This recommendation had its full effect. Dr. Lloyd was appointed by the Prime Minister.

4 Merrion Square, Feb. 26, 1867.

My dear Lord Derby,—I cannot forbear to thank you for the appointment of Dr. Lloyd to the office of Provost of Trinity College. I do not think you could have chosen a more worthy man, whether as regards learning, high personal

character, wise moderation, and special fitness for this responsible position. He has always been very true to our party, without the least parade of any kind. Indeed I may truly say of him, his modesty exceeds his merit. I cannot express to you the general satisfaction with which this promotion has been received, and it is ascribed to your firmness in making the interests of the university paramount to other claims however urgent.

Attached as I am to Trinity College, and anxious for the maintenance of its prestige, I took the liberty of writing to you what I conscientiously felt in the matter, and I am very grateful to you for having received it in the spirit in which I wrote to you.

Believe me to be, dear Lord Derby,

Your very faithful

JOSEPH NAPIER.

Earl of Derby.

Whilst on the subject of patronage and its recommendations, I may say that both Bishop Bullock and Bishop Singer owed their elevation to the See of Meath to the influence of Napier. And now, though a longer interval than was necessary had elapsed, the hint conveyed by Sir Hugh Cairns was to be acted upon. The sacrifice of Napier was not to go unrewarded, and henceforth the blood-red hand was to decorate the escutcheon of his house. The once struggling student of Trinity College, the skilful advocate, the far-seeing politician, the stout champion of his beloved Church, the sound and lucid judge, was to be created

a baronet. Lord Derby thus apprises him of his elevation:

St. James's Square, March 26, 1867.

My dear Napier,—Your patience will, I am afraid, have been nearly exhausted, and you will have thought that I had forgotten you. Such, however, is not the case; and I have great pleasure in informing you that I have this day received from the Queen her Majesty's approval of my recommendation that she would recognise your past services and the sacrifices you have made by conferring on you the dignity of a baronetcy. I beg you to accept my sincere congratulations; and I only await your instructions as to a territorial addition, which is, I believe, usual, to send the necessary directions to the Home Office.

Yours sincerely,

DERBY.

Right Hon. Joseph Napier.

Of the numerous letters of congratulation that Napier received on this occasion, it is doubtful whether any gave him greater pleasure than the one written to him by his old and valued friend, Canon Carus of Winchester.

Your very kind letter (he answers) gave me unmixed gratification. The honour conferred on me was enhanced by the kind and genial communication which I received from Lord Derby, and I need not say how much more it is enhanced by the expression of such friendly feelings as are in your letter. Whatever influence it may add to my position, it is my earnest hope that all may be devoted to the more faithful service of my dear Lord and Master. Everything has been

bountifully ordered for my happiness as for my good, if I am kept steadfast in the faith.

It was only a fitting tribute to the order of things that Napier should make his first public appearance after his acceptance of the title at the coterie of which he was so conspicuous and representative a member. On the occasion of the annual dinner at the National Club (May 8, 1867), he took the chair, and it fell to his lot to propose the toast of 'The United Church of England and Ireland.' Coming events were casting their shadows before them, and in the attacks made upon the Irish Church in Parliament at this date —in the House of Lords by Earl Russell, and in the House of Commons by Mr. Gladstone—it was apparent to all, that unless some special and unexpected interposition prevailed, the overthrow of the establishment across St. George's Channel was imminent. Napier was looked upon in England as the special champion of the Irish Church—indeed he had been so designated by Dr. Wilberforce, then Bishop of Oxford, at one of the meetings of the Church Congress—and he now once more uplifted his voice in favour of the cause he loved so well, and for which it had been his province so often to do battle both in and out of Parliament.

In proposing the next toast, I must solicit a little of your indulgence, because it is a toast which, under present

circumstances, I think requires from me some substantial observation. The toast I have now to propose is, 'The United Church of England and Ireland.' The two branches of it have many things in common, but I must also say that each has its own peculiarity, and each has an historical as well as a scriptural title. Each I believe to be, according to the common law of England and Ireland, the proper representative of the ancient Church in each country respectively; according to the ecclesiastical law, the Church by canonical succession; and, what is by far the most important, each has the scriptural title without which no Church has any claim for support. A great authority, perhaps the greatest man Ireland ever produced, and I doubt if England ever produced a greater—Edmund Burke—spoke of the Church of Ireland as 'a great link towards holding fast the connection of religion with the State, and preserving the connection between England and Ireland. We have taken the title of the United Church from the international treaty of the legislative Union. It is now 'the United Church of England and Ireland.' Not but before the Union the two Churches were one, under one Sovereign, the Crown of England, and they were called in many of the public documents 'the Church of England and Ireland.' By faith of the international treaty, however, they are formally bound together and constitute one Established Church of England and Ireland. Gentlemen, we cannot shut our eyes to the fact that at the present moment the two branches are attacked in different ways—the English branch is attacked by an enemy within, and the Irish is attacked by an enemy from without.

Then after having animadverted upon the lawless proceedings of the Ritualists within the Anglican Church, Sir Joseph thus proceeded:

I will pass on to a subject which at this moment presses more urgently on my mind—I refer to the position of the Irish branch of the united Church. Happily, with regard to this part of my subject, I have no complaint to make, and nothing to remark upon as to any internal disease. It is attacked from without by political and insidious enemies—the Liberation Society and their friends in England, and the Ultramontane party in Ireland. The course of attack adopted for many years, whilst I was in Parliament, was that of reiterating false statements of detail. Public attention was exclusively drawn to parts of the country where the Protestants were few in number. As Balak said to Balaam, 'Come, I pray thee, with me unto another place, from whence thou mayest see them; thou shalt see but the utmost part of them, and shalt not see them all; and curse me them from thence.' Exaggerations as to the property of the Church were again and again repeated with all the vitality of lies. In the last debate in which I had an opportunity of taking part in Parliament upon the subject of the Irish Church, the assailant was then Serjeant, now Mr. Justice Shee, who proposed a plan for the reconstruction of the Church. He said very fairly, and I believe sincerely, that he frankly admitted that the Protestants in Ireland had a right to an established Church, and to have it sufficiently and liberally endowed. He proposed a certain scale of allowances which he considered to be sufficient to meet the real requirements of the Protestant population. My excellent and esteemed colleague in the representation of Dublin University, George Alexander Hamilton—a man of whom I can never speak without the deepest affection for his fidelity and modest merit; to whom I am indebted for that earnest and cordial co-operation by which I was sustained in my Parliamentary career—having counted up the amount of the allowances proposed by Serjeant

Shee, found them to fall short of the available income of the Irish Church by a sum of nearly 80,000*l.* yearly, and, on an examination of the official documents, the Secretary for Ireland openly declared that this was the real state of the case. The result was the complete discomfiture of the then assailants of the Church, and the defeat of Serjeant Shee's motion by an overwhelming majority. The tactics are now changed, and the attack is now made on the ground that the Church of the Reformation in Ireland is an insult to the Roman Catholics. What now do we learn from the new leader [Mr. Gladstone] against the Irish Church, the man who, in former times, by his writings and advocacy, used to be its most brilliant and steady defender? He stated last night in the House of Commons, 'There is no argument upon matters of mere detail, there is no answer founded upon the removal of defect or anomaly. On the contrary, the more you remove anomaly, the more you cure defects, the more you rectify inequalities, the more you only make the thing itself more odious and offensive in principle in the eyes of the masses of the population.' These were the views propounded by Mr. Gladstone last night in the House of Commons. What has caused this revolutionary change in his opinions?

Sir Joseph answered the question by stating that as Parliamentary reform was no longer an available measure, the Disestablishment of the Irish Church was a cry which, once sounded, would ring with welcome music in the ears of many a so-called Liberal.

The toast I propose to you is, 'The United Church of England and Ireland.' I ask what power has the Imperial Parliament to deal with the Irish Church, and whence does it derive

the power? From the Treaty and the Act of Union, which says: 'The continuance and preservation of the United Church of England and Ireland shall be deemed, and taken to be, an essential and fundamental part of the Union?' I appeal directly to honest and just men—and it is the character of Englishmen to be honest and faithful to treaties. Here we have a great and international engagement, made at a time, mark you, when the Protestants of Ireland were the sole possessors of political power—when they had the right to regulate on their own side the arrangements of the Treaty of Union. The arrangement made and concluded with England was, that the Church of Ireland should be united with the Church of England, and the two so united should be established as the National Church of England and Ireland, and the continuance and preservation of which, as the Established Church of England and Ireland, was made and declared to be an essential and fundamental part of the Treaty of Union. If there is honesty, and if the solemn obligations of treaty are to be respected, I ask you, then, upon what ground of right can any honest Englishman, whatever position he may occupy, say that the Church in Ireland under the treaty has not as good a right as the Church in England to be continued and preserved as an integral part of the Established National Church?

I come now to the ground of justice, and I ask Mr. Gladstone where is the injustice? In Ireland the laity are free from all compulsory rates, taxes, or cess for the support of the Church. There is no personal charge levied on any lay member of the community, whether Roman Catholic or Protestant. How is the Church supported then? By its own lawful property, supplemented by voluntary gifts. From the earliest times part of this property has belonged to the Church, as recognised by common and ecclesiastical law,

and it has continued from the earliest times the property of the Church in its corporate character. This was not interfered with at the Reformation. The Church has other property lawfully conferred on it since the Reformation. I ask, then, upon what ground of justice can it be maintained that the Church has forfeited any part of this property? When the Church was sluggish and neglectful of its duty, England did not deny the right, it was invariably admitted. But now, when the clergy are active and faithful, when the building and endowing of churches are on the increase, and private effort is up and doing, is it because of this that England is to punish the Church in Ireland with the penalty of confiscation of her property? Is Mr. Gladstone to put forward this while he says, 'I admit that I cannot find a fault with your excellent, useful, and faithful clergy.' I ask the Protestants of England, would you not be glad and thankful if the clergy of your own branch of the Church were as generally and devotedly attached to the principles of the Reformation as those of the Irish branch. Well, where is the justice of saying, because the Irish clergy are diligent in duty, because under great difficulties they have been faithful witnesses of the truth—because, although beset with difficulties, with many adversaries, they have executed the divine commission of the Reformed Catholic Church, for that very reason the property which belongs to the Church by the law and constitution of Church and State shall be the subject of political confiscation? Mr. Gladstone himself has declared in Parliament that if the property were to be confiscated to-morrow it would go to the State, and not to either landlord or tenant. Where, then, is the justice of saying to the Irish branch of the Church, 'Notwithstanding your faithfulness, notwithstanding the Treaty of Union, we will spoliate you, we will separate your case from the English branch of the

Church.' And is this to be submitted to because it is required in order to secure a party support for the ambition of apostasy?

All of you here are attached to the English Church, but you are not more attached to it than I am, and I ask you this question, 'If you are to decide this question of Establishment as a mere question of arithmetic for any part of the United Kingdom, how will you support the Church in Wales?' I might easily multiply these illustrations; I enter my most solemn protest against dealing with the subject as a question of mere numbers in particular localities. This is not the permanent and constitutional foundation of the United Church of England and Ireland. You must upheave the foundation before you can so deal with the question. Gentlemen, let me remind you that if you begin with the argument of numbers as a plea for destroying the Establishment in Ireland, it must be applied to the Establishment in England. Moreover, remember this—at this moment the Irish Protestant members of Parliament are friends of the English Church. Supposing the Protestants of Ireland should find that they have been entrapped by the Union, that it was not marriage, but seduction under promise of marriage, that they had been betrayed by the country which they have not yet regarded as 'perfidious Albion,' I ask you, is it likely you would have, out of the 105 members from Ireland, even five of them to support the Church in England? For my own part, I have from an early period of my life been deeply attached to England. It is not the country of my birth, but with it I am connected by ancestral ties, and it is in many respects the country of my sympathies and affections. I trust that I shall never find occasion for ceasing to love and honour this great and free nation, with its Reformed National Church.

Shortly after the delivery of this speech, a Royal Commission was appointed at the request of Earl Russell, 'to obtain information as to the revenues of the Established Church in Ireland with a view to their more equitable application for the benefit of the Irish people.' Sir Joseph did not object to the institution of this Commission.

I believe (he writes to Lord Derby, June 12, 1867) the maintenance of the Church Establishment in Ireland to be vital, but I agree that in the present state of Parliamentary opinion the whole subject must be deliberately reviewed with a view to make our defences as sure as we can. I am quite favourable to a Commission, provided it be so constituted as to secure an impartial and searching inquiry, and that the remedial legislation (if such shall be required) shall be promptly carried out after the Commission shall have reported. I see no objection to Lord Russell's motion, if the Commission should also inquire into the requirements of the Church in Ireland with a view to the ascertaining what is reasonably required by the Protestant population in accordance with the fixed principles of the parochial system.

Next to an attack upon the Irish Church—if even next—there was nothing which more quickly aroused the combative faculties of Napier than any movement calculated to place his cherished university, which had treated him with the tenderness of a mother, and had shown her appreciation of him as a son by choosing him for years as one of her representatives, in danger.

Some such movement was now in full agitation. Mr. Fawcett, then member for Brighton, had given notice (June 18, 1867), of the following motion: 'That in the opinion of this House it is undesirable that the fellowships and foundation scholarships of Trinity College, Dublin, should be exclusively appropriated to those who are members of the Established Church.' Sir Joseph, who was then in Dublin, wrote to Lord Derby upon the subject.

The Board of Trinity College are anxious that I should accompany the Chancellor (Lord Rosse) and the Provost with other friends, should you agree to receive them as a deputation, and I have promised to be in readiness to attend. It is in reference to Fawcett's motion as to opening fellowships &c. to all denominations. In your own speech, delivered July 21, 1845, you put forward in a few pithy sentences the case and claims of the College.[1] And singularly enough, you were enabled to call in aid the evidence of O'Connell. I send you a good Paper, carefully drawn up, and which I have endorsed as I., in which the leading points are put with exactness and without any exaggeration. Paper II. has been prepared by a very intelligent lay member of the Board of Trinity College, and well deserves consideration.

The truth is this university question cannot be settled by piecemeal, but as a whole. I entirely agree that your project of united education was perhaps the best and wisest plan that has been proposed for Ireland, but for a long time

[1] See Speech of Lord Stanley on the Endowment of certain Colleges in Ireland, in the House of Lords, July 21, 1845. *Hansard*, vol. lxxxii. p. 731.

I thought otherwise, and therefore I can make allowance for those who have frustrated its extension. We must accept the condition of our age and country, and deal with men as they are. Under all the circumstances I am strongly disposed to say that the general outline of No. II. is judicious, and the plan practicable. It would, I am confident, be ruinous to Trinity College to let in the Roman Catholic element upon the governing body. And this is also the source of apprehension as to the Queen's Colleges; if this element gets in upon the Senate of the University, it is likely to derange the settled system. Trinity College has a strong claim, for all its endowments are strictly Protestant. It is most desirable that this important question should be dealt with on fixed principles and in accordance with a well-considered determination of the Cabinet. My suggestions are given with no other object than to offer the views of an important looker-on.

Sir Joseph was something more than 'a looker-on.' He had been appointed by Lord Rosse, then Chancellor of the University, as Vice-Chancellor, an honour which he greatly prized; on the death of Lord Rosse, the office was occupied by Lord Cairns, and Napier was again appointed Vice-Chancellor of the University.

We now draw attention to the enclosures transmitted by Napier to Lord Derby. Enclosure I. confines itself to raising objections to the motion of Fawcett by showing the constitution of Trinity College, and how, should the motion be accepted, the very essence of the character of the College would be

altered. The objections are ten in number, and are as follows :—

Trinity College (unlike the Colleges in the two English Universities) was in its origin a purely Protestant foundation, and the entire legislation respecting it since the date of its establishment is based on the assumption that its Fellows are to be members of the Established Church, and that the principal duty of the great majority of them is to be that of training the future clergy of the Church. This principle is interwoven throughout the whole body of the College charters and statutes; it is incorporated in the Fellows' oath; it has been sanctioned by repeated Acts of Parliament. What is proposed by Mr. Fawcett's motion is, not a *change*, but an entire *subversion* of the primary purpose for which the College was established and endowed.

The only prizes in Trinity College analogous to such fellowships in the English Universities as are not connected with the actual work of education, are the university studentships, which were founded by Royal Letter in the year 1858. These offices are open to all students, without religious distinction; they are tenable for seven years, and three of them are at present filled by Roman Catholic graduates.

The general education of the students, and especially the theological instruction of candidates for Holy Orders, is regulated by the Board, consisting of the Provost and senior Fellows. If Roman Catholic and Dissenting Fellows are to be admitted on the foundation, it must lead to an alteration of the entire system of education in the College, and especially of the religious part of it. As there is only one College in the University, the sons of Protestant parents throughout the country would no longer enjoy the advantages for educa-

tion which they have hitherto possessed, and a Board, some of whose members might be Roman Catholics or Dissenters, could not be left to direct the education of candidates for Holy Orders in the Established Church. The main object of the foundation would thus be defeated.

If Trinity College should be so completely changed in its fundamental principles as to cease to be a place where such candidates for Holy Orders could receive their theological education, they must be driven to seek it elsewhere in some establishment founded for this special purpose. Such a change could not but be productive of very injurious results. The general character of such training would obviously be much inferior to that under which such candidates for Holy Orders are educated in conjunction with other students, some of them Dissenters and some Roman Catholics, and where all are led to cultivate more enlarged sympathies and greater liberality of thought. It is worthy of remark that, whilst Roman Catholic lay students are altogether excluded from the College of Maynooth, they are freely admitted to share in all the privileges, honours, and emoluments of Trinity College, except foundation membership. The annual endowment of Trinity College does not much exceed the annual grant secured by Act of Parliament to the College of Maynooth.

The injury which would result to the College from the proposed change would be incalculable. The confidence of Protestants throughout the country would be entirely withdrawn; religious animosity, from which the College is now admittedly exempt, would inevitably be introduced; while the great body of the Roman Catholics would keep aloof from an institution which would not afford them more guarantees for religious instruction than they now possess in the Queen's Colleges.

It cannot be justly alleged that Trinity College as an institution is disproportioned to the wants of the Protestant population of Ireland. A careful calculation shows that the number of existing graduates of Trinity College probably exceeds 5,600, a number nearly, if not quite, equal to the proposed constituency of the four Scotch Universities; and it must be remembered that in Ireland the majority of those who are in a condition to avail themselves of a university education belong to the Established Church.

If the proposal to open the fellowships be carried out, one or other of two things must happen. Either clergymen of all denominations must be admitted to the governing body of the College, or they must be excluded, and the management placed entirely in the hands of laymen. Supposing the former to take place, it is impossible to conceive that the harmony essential to the prosperity of the institution could subsist where questions of education and patronage are placed before persons whose opinions must of necessity differ so widely as those of clergy of different denominations. The present state of the education question in Ireland shows how entirely futile are the hopes of those who imagine such a system feasible. It is unnecessary to speak of the alternative system which would exclude the clergy from the government of the College. This could only be carried on by an entire subversion of the existing institution, and the alienation of its endowments from the purposes for which they were given, and it would be opposed to the wishes of the great majority of the population.

Although, as has been observed, the primary purpose of the founding and endowing the College was for the maintenance of the Protestant religion, arrangements for extending all the educational advantages of the College to students of every religious denomination have been made with great

liberality. It is the wish and the purpose of the Board to go as far in extending these advantages as can be effected without defeating the primary object of the Protestant foundation. They have, in 1855, endowed a large number of non-foundation scholarships, open to all students; and, in 1858, fourteen university studentships, on a like principle.

All the professorships in the professional schools of Law, Medicine, and Engineering, are now open to Roman Catholics and Dissenters. The only professorships which Roman Catholics and Dissenters cannot hold are those connected with the Divinity School, and the only other permanent offices to which they are ineligible, namely, the fellowships, are places which, as has been shown above, are necessarily connected with the religious education of the students who are sons of Protestant parents, and with the government and effectual working of the Divinity School.

It may be observed that the steps taken by the Board in the direction indicated have had the success which generally attends just and well-considered concessions freely made, and that they have shown such a disposition to act in a liberal and generous spirit, that coercive interference is altogether uncalled for, and may tend to defeat the object which it professes to advance.

Enclosure II. consists of the following remarks on Mr. Fawcett's motion:

There is much difference of opinion in Ireland on the question of the relative merits of the denominational and the united systems of education. It is now more than thirty years since the schools of primary instruction under the National Board were established on the united system; and to this day a very large number of Protestants

and of Roman Catholics refuse to avail themselves of that instruction on account of their decided preference of the denominational system. There are at present three establishments in Ireland for giving collegiate education, two, so far as religious education is concerned, on the denominational, and one on the united system. The object of the Resolution now before the House is to alter the constitution of one of these establishments, leaving the other two untouched, so as to leave a denominational College to the Roman Catholics, but to deprive Protestants of any similar advantage.

It is admitted that the constitutions of the two denominational establishments are very different; and that, consequently, students in the Roman Catholic College of Maynooth have just reason to complain that their privileges are not equal to those of the Protestant students in Trinity College. It would, however, be much safer and easier to remove those differences, and to place the two Colleges on a footing of perfect equality, than to subvert one for the sole purpose of gratifying the jealousy of the other. The endowments of the three establishments are nearly equal. The number of Protestants and Roman Catholics likely to avail themselves of university education are also nearly equal. There is no material difference to be corrected, except that one is a university authorised to give degrees, while the other has no such privilege. Let this difference be removed, and let Maynooth be raised to the rank of a university, and then all grounds of jealousy will be removed. No injury will be done to either of the existing universities, while a valuable boon will be granted to the Roman Catholic students. Trinity College will continue to educate Protestants under the guidance of Protestant teachers; Maynooth will give an equally good education to Roman Catholics under the guidance of their clergy; while the Queen's University will, as

at present, give united education to all who disapprove of the denominational system. Each university will thus have ample scope to develop the advantages of its own system; a spirit of generous rivalry will ensue, from which each will profit; internal dissensions will be removed, instead of being aggravated by the introduction of conflicting interests into the governing body of any one university; and opportunity will be given to determine, by practical experience, which system of education is most suitable to the wants of the country.

The motion was introduced by the late Mr. Fawcett on the day appointed in a calm and temperate speech which received the approval of both sides of the House. The University of Dublin, he said, though consisting of a single college, Trinity College, was yet complete in itself. It was the richest collegiate foundation in the world, for its estates extended over seventeen Irish counties, and comprised two hundred thousand acres, bringing in a revenue of ninety-two thousand pounds. Neither at Oxford nor at Cambridge was there such a college. The rewards which it conferred upon learning and scholarship were truly splendid, for the seven senior fellowships were prizes far more substantial than any to be obtained at Oxford or Cambridge, whilst there were yet twenty-eight junior fellowships, and seventy foundation scholarships to be competed for. Still these prizes, splendid though they were, could only fall into the hands of those professing the religion of the minority. From obtaining

one of them every Roman Catholic and Nonconformist was excluded. The religious disabilities associated with Trinity College, Dublin, represented a higher order of injustice than the religious disabilities connected with Oxford and Cambridge. 'The association,' said Fawcett, 'of any religious title with a university was a most incongruous procedure. A university had higher and nobler ends to perform. Under its influence men of the highest culture, without regard to their religious opinions, ought to be able to live together in intellectual communion, undisturbed by sectarian influences. It was true a few scholarships had been thrown open, but they had done little to remedy the injustice complained of.'

The debate began on the night of June 18, and was terminated on the 24th of the next month. The arguments of the opponents to the measure were but a repetition of the objections contained in the papers enclosed by Sir Joseph Napier. On a division, the numbers were found to be equal—Ayes 108, Noes 108. The Speaker gave his casting vote in favour of the Noes. 'This,' said the Speaker, in explanation of the course he pursued, 'was an abstract resolution, which, if agreed to by the House, would not even form the basis of legislation; but undoubtedly the principle involved in it was one of great importance, and if affirmed by a

majority of the House, it would have much force. It should, however, be affirmed by a majority of the House, and not merely by the casting vote of its presiding officer. For these reasons he declared himself with the Noes.'

The motion of Mr. Fawcett was consequently lost.

CHAPTER IX.

RITUALISM.

What the House and the country understand by Ritualism is practices by a portion of the clergy avowedly symbolic of doctrines which the same clergy are bound in the most solemn manner to refute and repudiate. . . . So long as those doctrines are held by Roman Catholics I am prepared to treat them with reverence; but what I object to is, that they should be held by ministers of our Church who, when they enter the Church, enter it at the same time with a solemn contract with the nation that they will oppose those doctrines and utterly resist them. What I do object to is mass in masquerade.—*Speech of Mr. Disraeli on Public Worship Regulation Act*, July 15, 1874.

'WHEREAS it has been represented unto Us that differences of practice have arisen from varying interpretations put upon the rubrics, orders, and directions for regulating the course and conduct of public worship, the administration of the Sacraments and the other services contained in the Book of Common Prayer according to the use of the United Church of England and Ireland, and more especially with reference to the ornaments used in the churches and chapels of the said United Church, and the vestments worn by the ministers thereof at the time of their ministration. And whereas it is expedient that a full and impartial inquiry should be made into the matters aforesaid,

with the view of explaining or amending the said rubrics, orders, and directions so as to secure general uniformity of practice in such matters as may be deemed essential, now know ye that We, reposing great confidence in your ability and discretion, have nominated, constituted, and appointed'—[Then followed the names of those directed to serve on the Commission.]

Such were the opening words of what was briefly termed the Ritual Commission, a board composed of men of all shades of thought in the Church, under the presidency of the Archbishop of Canterbury. Of these commissioners Sir Joseph Napier was one. The first meeting of the Commission was held in the Jerusalem Chamber, Westminster, June 17, 1867.

The appointment of this board of inquiry was not before it was urgently needed. The innovations introduced by the Ritualists in their mode of celebrating divine service had now reached such a height that, unless the authority of the law intervened, the distinctive features stamped upon the Anglican Church by the Reformation would in many quarters be effaced. Vestments of various shapes and colours,—green, red, white, and violet,—considered to have an emblematic character, had been freely adopted by the ceremonialists and deemed to be specially appropriate to particular services and seasons.

Lighted candles were placed upon the 'altar' and incense swung in front of it. When the Holy Communion was administered, the celebrating 'priest' wore the 'chasuble,' whilst the deacon and sub-deacon wore the 'dalmatic' and 'tunicle'; boys dressed in surplices and cassocks also assisted. At the time of the celebration of the Holy Communion various gestures were used with regard to the sacramental elements; water was also mixed with wine in the chalice. Before service on great occasions a procession was formed, headed by a youth bearing a large cross, who was followed by the choristers and clergy singing a hymn. Upon the 'altar' was a cross —or, if the vicar or incumbent was afraid of the law, upon a ledge behind the altar, giving the same appearance at a distance as if on the altar. Confessional boxes were placed in the aisles, and the necessity of confessing to a priest inculcated. The Holy Communion was distinctly proclaimed to be 'a sacrifice,' and for that reason the celebrating priest was to 'have a distinctive dress to mark him off from the rest of the ministers, as being the principal priest in office offering the sacrifice at the time.' Details of a minor nature were also introduced, all undisguisedly tending to overthrow what of Protestantism there was in the Church of England.

Nor had remonstrances from high quarters any

effect upon the vagaries of these refractory clergy. Admonitions from the bishops they had vowed to obey were calmly ignored, whilst anything approaching to an episcopal threat was replied to by a solicitor's letter. Every gnat of the rubrics was strained out, whilst the camel of open and systematic disobedience was unblushingly swallowed.

We are told (said the present eloquent Bishop of Peterborough, on the passing of the Public Worship Regulation Bill) that we should govern the Church by fatherliness. Now I must be allowed to say that there is something very one-sided in this cry for fatherliness from the Bishops, when they meet with no filialness, and I should like to have some reciprocity. When a monition is to be flung back in my face, and I am told that I am neither a gentleman nor a divine, and that my conversion to Christianity is to be prayed for, I must say I should like to see a little filialness on the part of those who are demanding the fatherliness. I honestly desire, as far as I can, to be fatherly towards these men; but when I hear this advice given to us, I am reminded of the solitary instance in which a ruler attempted to govern in this fatherly fashion, and that his name was Eli whilst his sons were Hophni and Phinehas.

Nor were the Ritualists consistent in their opposition. When the common law of the land condemned their proceedings they declined to acknowledge its validity; when however it sanctioned their conduct, they availed themselves to the full of its power and arguments. Thus at one time they were seen

appealing to the ruling of a layman judge, whilst at another they contemptuously refused to recognise his authority. They would, they said, only be governed by the ecclesiastical law and by ecclesiastical judges. We have seen how they obeyed their bishops.

The commissioners appointed to inquire into these disturbing matters were twenty-six in number. Of this body the most prominent were the Archbishops of Canterbury and Armagh; the Bishops of London, Oxford, St. David's, and Gloucester and Bristol; the Deans of Westminster, Ely, and Lincoln; Lords Stanhope, Harrowby, Beauchamp, and Ebury; Sir Robert Phillimore and Sir Joseph Napier; and Messrs. Spencer Walpole, Beresford Hope, and J. D. Coleridge.

Though Sir Joseph was a sincere and prominent member of the Evangelical body, he had nothing of the intolerance and narrow-mindedness which is often associated in the public mind with that community. His culture and judicial training preserved him from that common fault—a fault especially apparent in the so-called religious world—of considering all in the wrong who hold opinions contrary to our own. The views he had arrived at upon theological and Church matters were the result of much thought and extensive reading, still he was perfectly prepared that others should draw very different deductions from the same premisses. Therefore, though he had no sympathy

with their teaching, his attitude towards the old-fashioned High Church party, and, but in a lesser degree, towards the Broad Church party, was always temperate and unprejudiced. He gave his opponents every credit for their sincerity, whilst convictions honestly entertained and consistently supported were ever treated by him, whether as judge or private individual, with the respect and attention they commanded. He knew that a Church which appealed to the nation at large must be built on a broad basis, so as to collect within its fold the various schools of thought; yet the basis, broad though it was, should have settled and well defined limits in order to avoid licence on the one side and indifference on the other.

Whatever my own particular leanings may be (he said on one occasion at the National Club), I do admit that the National Church was and is bound to provide for many peculiarities of individual apprehension, looking however at the same time to substantial and standard truth.

With the lawless proceedings of the Ritualists, however, he never had the scantiest sympathy, nor did he attempt to conceal his dislike of their shifty mode of action. Still, with all the hatred of the northern Irishman for everything savouring of Romanism, he failed to regard with approval the prosecutions then being agitated by the Church Association.

These clerics (he writes, referring to the Ritualists, to his kinsman Mr. Mark Napier, a distinguished advocate in Edinburgh) suppose that they have the benefit of clergy and are above law—Fenians of a special class. I do not much approve of prosecutions by a Company (Limited), but where there has been wilful violation and defiance of law I would make the offenders feel that they are *sub lege*.

In a paper drawn up by Sir Joseph he lays down the course which the commissioners, in his opinion, ought to pursue.

We are anxious in no degree to abridge or curtail any of the rightful liberties heretofore enjoyed by the Church's ministers. We hold it to be most desirable that the National Establishment should continue to comprise members who are attached to the different schools of religious thought, so long as every minister whom the Church appoints shall be willing to conform to her standards of doctrine and ritual. But this large comprehension seems to us to render it most desirable, and indeed essential, that in the Church's ministrations the officiating minister should not introduce innovations which are welcome to one party but are wholly offensive to another. Each party in the Church being expected to join in Common Prayer and Holy Communion is, as we conceive, entitled to expect that there should be no variations from established usage that give to the ministration a tendency of which that party disapproves, and by which its devotion is impeded, and that no symbolism should be used to signify any doctrine that the Church has repudiated or left open and undecided.

From the pages of the Report of the Ritual Commissioners, we see the part that Sir Joseph played on this occasion. He was constant in his attendance at the meetings, and though he did not take such an active share in the examination of witnesses as certain of the other commissioners, the questions he put were always most pertinent to the inquiry. From the full quiver of the report let us draw a few of his arrows.

Mr. George Cosby White, the perpetual curate of St. Barnabas, Pimlico, was being examined (Monday, June 24, 1867). He had confessed to the introduction of frequent celebrations of the Holy Communion, to the mixing of the water with the wine, to the wearing of coloured stoles corresponding with the colour of the altar cloths, to the lighting of candles on the altar, to the placing of flowers upon the super-altar, and to the erection of a cross on a ledge. The witness justified these innovations by asserting that in recent decisions by the Privy Council they had not been declared illegal.

Sir Joseph Napier then asked these questions:

As to the coverings or cloths you spoke of, were they used for covering the stone structure that was removed?—Yes.

That was removed on account of its being an altar fixed?—It was removed by order of the Privy Council.

For the reasons given in the judgment?—For the reasons given in the judgment.

The cloths, I believe, were those that are ordered by the canon?—Yes.

The 82nd canon is: Whereas we have no doubt but that in all churches within the realm of England convenient and decent tables are provided and placed for the celebration of the Holy Communion, we appoint that the same tables shall from time to time be kept and repaired in a sufficient and seemly manner, and covered in time of divine service with a carpet of silk or other decent stuff thought meet by the Ordinary of the place if any question be made of it, and with a fair linen cloth at the time of the ministration?—Yes.

I suppose that it is under that canon that these cloths are continued now?—I suppose so.

If any question should be raised about colour or quality, that was to be disposed of by the Bishop?—Yes.

Is there any canon similar to that with regard to the stole?—No.

I suppose you take these matters as to the manner of conducting the services of the Church to be part of the common order of the Church?—Part of the common order of the Church.

And every particular is ascertained from some common authority accessible to all the ministers?—Yes.

Is there any other deviation in your church from the prescribed rubric in the Book of Common Prayer with regard to the celebration of the Holy Communion than the mixing of the water?—I do not admit that to be a deviation from the rubric. I do not wish to imply that I regard it as a deviation from the rubric.

I want to know whether there is any deviation from the mode of celebrating the Holy Communion prescribed in the Book of Common Prayer, with the exception of using the water?—As I said, I do not regard that as a deviation from

the mode prescribed in the Book of Common Prayer. I should be very sorry to do anything which I did not believe to be thoroughly and entirely justified by the Book of Common Prayer.

It may be so; but where is there anything in the Book of Common Prayer as to the use of the water?—I think that the usage of the Church in all times, the immemorial usage of the Church, is quite distinct upon that head, and that water has always been used with the wine.

What I meant by my question is this: Besides that which is expressly prescribed in the Book of Common Prayer, is there any other deviation in your celebration of the Holy Communion except the use of the water?—I am not aware that there is.

I should perhaps use the word 'addition' instead of deviation?—I am not aware that there is.

You do not think it necessary, as I understand you, to have any different dress; in that you follow the 58th canon?—We use the same dress exactly for morning and evening prayer, and for the celebration of the Holy Communion.

You exactly follow the 58th canon, with the exception that you add the stole to the dress there prescribed; the canon directing that the surplice and hood should be used at all times?—Yes.

You have no other addition than the stole?—No.

This witness was asked no further questions by Sir Joseph.

At the examination of Mr. Webb, the incumbent of St. Andrew's, Wells Street (Thursday, June 27, 1867), Sir Joseph again put certain queries. Mr. Webb had confessed to having candles on the altar,

which, however, were only lighted when the church was dark, and to the use of the mixed chalice. He did not wear coloured stoles, nor did he use incense.

In your evidence (asked Sir Joseph), I see you first refer to lights. You do not light them when they are placed on the Communion table?—I do not light them at the time of Communion unless it should be a dark morning.

Afterwards, in the subsequent part, you mentioned that you think the lights come within the rubric about the ornaments?—I do think so.

Do you give that rubric a more extended construction than the Judicial Committee of the Privy Council give it in the Westerton case?—I hardly know what their limits were at the moment.

Their limits were that it was confined to the ornaments that were prescribed by the first Prayer Book of Edward VI.?—We do not go beyond that: I think that is the limit.

Are the lights prescribed in the first Prayer Book?—They are prescribed in the Injunctions, if I remember, and I think that the Injunctions are two years earlier than the Prayer Book—1547.

You confine it to what is prescribed in the first Prayer Book?—And the Injunctions of course. I do not suppose that the Prayer Book got rid of the Injunctions—the Injunctions of 1547.

You mentioned you had given your attention to the rubric, and the rubric refers back to the time of Edward VI. I wish to know whether you confine it to what is prescribed in the first Prayer Book, or whether you go behind the first Prayer Book?—Do you mean to ask me whether I think that this rubric that 'such ornaments of the church and of

the ministers thereof, at all times of their ministration, shall be retained and be in use, as were in this Church of England, by the authority of Parliament, in the second year of the reign of King Edward the Sixth,' only means things that were specified in the book of 1549?

Yes?—Yes, I think so; that is my meaning.

You observe in that rubric the word 'retained' is introduced for the first time. It is not in the previous rubric?—It is in the rubric of 1662, you mean, for the first time?

Yes?—Yes, that is so.

What precise force would you give to the word 'retained' as there introduced?—I do not know what force to give the word as introduced there under those circumstances.

Supposing that any of the vestments had at that time been prohibited, do you think the word 'retained' would be properly applicable to those vestments?—I think it might. I do not think it would have been the best word to use, but I think it would have covered the presumed intention.

Do you think, in speaking of matters that had been prohibited and disused as unlawful, the word 'retained' would be a proper word to use?—The question would arise whether they had been prohibited in a thoroughly satisfactory manner and with proper authority.

I am supposing them to have been unlawful, both disused in fact and unlawful, at the time that rubric was framed. Do you think then that the word 'retained' would be a proper word, and would be applicable to those unlawful vestments?—Do you mean unlawful in the year 1662?

Yes, before the making of the rubric?—I think the question would rather be what would have made them unlawful.

You say you doubt whether incense is contemplated under the rubric?—I have my doubts on that point.

Is that merely because it is not prescribed by the Prayer Book of Edward VI. ?—Yes, that is the reason.

With regard to the mixed chalice, I see you seem to put it mainly on the ground of the authority of some eminent persons, such as Bishop Andrewes; one witness mentioned that Bishop Cosin also practised it; is that your opinion ?—It is my opinion.

Can you refer me to any authority for that ?—Not at the moment. It is difficult to answer such questions as that without books to refer to.

It is your opinion that Bishop Cosin practised it ?—It is my opinion.

You do not think that would come within the rubric ?—In what sense ?

Using it in the service as an article in the service—mixing the wine with the water ?—You mean the fact of it not being in the rubric ?

Do you simply justify your opinion on the authority of those one or two cases ?—I know, of course, that there is no rubric ordering the mixed chalice now; but it was my notion that there was no infringement of the rubric by retaining a practice of such great antiquity.

Do you think it was the intention of the authorised Book of Common Prayer to allow additions to be made according to the learning or judgment of the particular clergyman ?—I do not know.

Do you think it is competent for a clergyman of his own choice to add to the rites and ceremonies prescribed in the Book of Common Prayer ?—No, not generally; but with reference to this point I imagine that multitudes of clergymen were in the habit of mixing the chalice, and that the omission of the rubric would not much affect their practice.

A great many do not?—I say nothing about imposing that rule upon others. I have no wish to do so.

If the object was to have uniformity in those matters, that would be a breach of uniformity?—Yes, it would, of course.

The third occasion of the appearance of Sir Joseph in the report, was on the examination of Mr. G. Nugee (Monday, July 1, 1867). Mr. Nugee was the vicar of Wymering and rector of Widley; he had confessed to the adoption of the usual practices of his party, and upheld them as ultimately tending to the reunion of the whole of Christendom.

I suppose (asked Sir Joseph Napier) you regard the Communion Service as sacrificial and propitiatory?—I do not quite know what you mean by propitiatory. It is a sacrifice.

I think you said you were extremely anxious to encourage reunion with the Church of Rome?—Not with the Church of Rome specially, but with the whole of Christendom.

With the Western Church?—Yes, but with the Eastern Church particularly. I consider the Eastern Church has retained all that is truly catholic.

As part of 'Christendom' do you count the Protestant Churches, Sweden and Norway?—I am most anxious for union with the Protestant Churches of Sweden and Norway.

What would you say as to Scotland?—I am most anxious that it should all be reunited. I think this is one of the great steps towards it, indirectly.

Do you think you are at liberty to adopt any use or practice of what you call the Catholic Church, although not allowed by the Church of England?—If it is not forbidden,

I think we are at liberty to use it, if it is consistent with all the Church's other formularies.

You think that any use that is not expressly disallowed and prohibited may be used?—I believe that the Church of England did not, comparatively speaking, alter her outward appearance at the Reformation, at least very little; that she was the same; that she altered doctrines, but as regards the ritual and ceremonial she altered but very little indeed; so that in the eyes of the people the Reformation was little more than a mere question of theology.

Do you use any interpolated prayers, such as those which are given in the Prayer Book for the Communion service?—I do not myself use any interpolated prayers.

Where do you get your directions as to the mode of performing the service from?—The Church Catholic throughout the world, as far as I can gather. I do not know any particular book.

Supposing when a clergyman is ordained he wishes to conform loyally to the Church of England, where, according to your view, is he to get his directions?—He must go to some of the books.

What books?—There is a Directorium and other things, which are most minute in all their explanations.

Are you aware that the old books were ordered to be destroyed in the time of Edward VI.?—I do not know; I do not think it concerns me very much.

If the books were destroyed, where is a clergyman of the Church of England to get his directions?—From the traditions of the Church which have come down.

Is it your opinion that a clergyman could not conform or know how to conform without being trained and familiarised with all those traditions?—It ought to be part of his training.

We give one more list of questions. Mr. Bennett, the incumbent of Frome, was under examination (Thursday, July 4, 1867). He had confessed to the usual practices, and had frankly said that he acted upon the principle that every clergyman was at liberty, in things which the Church had not forbidden, to exercise his own discretion as to the usage which each in his own opinion believed to be according to Catholic usage. He laid great stress, however, upon receiving the consent of the congregation and parishioners to any course that was eventually adopted.

Is it a rule (asked Sir Joseph) of the Catholic Church that the minister, with the consent of the congregation, may select the ceremonial?—If by the Catholic Church you mean the Roman and the Greek Churches, and the Church throughout the world, the ceremonial is so distinctly laid down in their rules that they cannot deviate.

I understood you before to say that you thought it most important to get the consent of the people?—In teaching people up to the point that I think right, of course it is wise and prudent to teach them gradually; and, therefore, teaching them as I did the doctrine, they would naturally follow to the practice.

Do you think it is part of the Church arrangement that the ceremonial should be suitable to the doctrine?—Exactly.

If there was any change made by the Church in the doctrine, there would naturally be a change in the ceremonial?—Exactly; or the ceremonial would have no more meaning.

I understood you to say that you desire that your minis-

trations should conform to the common order of the national Church of England?—I did not use the word 'common.'

Are you not aware of that expression, 'the common order of the Church'?—What ought to be the common order.

I mean the common order established by law. Whatever is the common order established by law, is it not your desire to follow in your ministration?—Yes; I can say that decidedly.

Every national Church has the power to fix its own common order?—Yes.

Where do you find the authority for saying that every rule that is not expressly prohibited is allowed?—I find it in the common usage of the Church in all other things.

If the national Church has the power to ordain its own rites and ceremonies, where do you find the authority for going outside its regulations to pick and choose amongst what you call the rules of the Catholic Church?—Because the national Church only takes up a few points of ritual and of doctrine, and it leaves all others as open as they were before.

Would you take it that if the national Church had altered its doctrine in any particular, that although it had not expressly condemned a certain ceremonial that you were at liberty to use that ceremonial although not suitable to the doctrine?—If it had condemned the doctrine, certainly the condemnation of the ceremonial would of course follow.

Do you use the chrism and the ampulla in baptism?—No, we do not.

Are they expressly condemned?—No; I should say it would be quite lawful to use them, provided the people desired it and it would be edifying to them.

In addition to his ordinary labours as a critical

inquirer upon the Commission, Sir Joseph Napier wrote a very valuable paper on the question of the usage of the national Reformed Church in respect of lighted candles at the Lord's table or in the public services. It was in answer to a letter upon the same subject by Mr. Fuller Russell, the rector of Greenhithe, who had been examined by the commissioners, and will be found in the first appendix of the Second Report issued by that Commission.

This report was published in the April of 1868. Instead of being the bulky volume expected, and dealing with the multitudinous topics embraced by the original instructions, it was singularly brief, and as cautious and reticent as a bishop's charge. Still it conveyed a decided opinion, and recommended a distinct course of legislative action. Confining itself to questions of vestments, lights, and incense, it came to the conclusion that it was 'expedient to restrain in the public services of the Church all variations from established usage.' The use of lighted candles at the celebration of the Holy Communion had been introduced into certain churches within a period of about the last twenty-five years.

It is true (said the commissioners) that there have been candlesticks with candles on the Lord's table, during a long period, in many cathedral and collegiate churches and chapels, and also in the chapels of some colleges and of some royal

and episcopal residences, but the instances that have been adduced to prove that candles have been lighted as accessories to the Holy Communion are few and much contested. The use of incense in the public services of the Church during the present century was also very recent; and, so far as we have any evidence before us, it is at variance with the Church's usage for three hundred years.

As regards vestments, the commissioners had already given their opinion in the report issued by them in the summer of 1867:

We are of opinion that it is expedient to restrain in the public services of the United Church of England and Ireland, all variations in respect of vesture from that which has long been the established usage of the said United Church, and we think that this may be best secured by providing aggrieved parishioners with an easy and effectual process for complaint and redress.

Thus the basis of the report was that any departure from long established usage should not be encouraged, and the whole question looked upon in the light of practical expediency. If a congregation demanded, or approved of, the innovations, it was expedient to sanction their introduction; on the other hand, if a congregation strongly opposed such proceedings, it was expedient for the law to be called in to assist the opposition. The dispute was one essentially for the sober common sense of the English people to decide. Where the innovations were liked, there

was no grievance; where they were disapproved of, the 'aggrieved parishioner' had his redress. The relief to be obtained by him was as follows:—

With regard then to lights and incense, as well as vestments (said the commissioners), we think that a speedy and inexpensive remedy should be provided for parishioners aggrieved by their introduction; and the remedy which we recommend is the following: First, that whensoever it shall be found necessary that order be taken concerning the same, the usage of the Church of England and Ireland as above stated to have prevailed for the last three hundred years shall be deemed to be the rule of the Church in respect of vestments, lights, and incense. And secondly, that parishioners may make formal application to the Bishop *in camerâ*, and the Bishop on such application shall be bound to inquire into the matter of the complaint, and if it shall thereby appear that there has been a variation from established usage by the introduction of vestments, lights, or incense in the public services of the Church, he shall take order forthwith for the discontinuance of such variation and be enabled to enforce the same summarily. We also think that the determination of the Bishop on such application should be subject to appeal to the Archbishop of the province *in camerâ*, whose decision thereon shall be final: provided always that if it should appear to either party that the decision of the Bishop or Archbishop is open to question on any legal ground, a case may be stated by the party dissatisfied, to be certified by the Bishop or Archbishop as correct, and then submitted by the said party for the decision of the Court of the Archbishop, without pleading or evidence, with a right of appeal to your Majesty in Council, and with power for the Court, if the statement of

the case should appear to be in any way defective, to refer back such case to the Bishop or Archbishop for amendment.

To prevent frivolous applications being brought before the Bishop, it was recommended that

the application should be made either by one or more of the church or chapel wardens, or by at least five resident parishioners who shall be householders and declare themselves to be members of the United Church, in places where the population exceeds one thousand, and by at least three such persons where the population is less than that number.

All the clauses in this report received the full approval of Sir Joseph Napier, and accordingly his signature was appended without protest of any kind. The instructions he drew up as regards the course the commissioners were to pursue in dealing with the constitution of the National Church, to which we have already referred, will be found embodied in clause eleven. There was by no means unanimity among the commissioners in signing the report, for protests were freely raised. The Bishop of Oxford and Dr. Goodwin signed the report, but objected to the licence allowed to the aggrieved parishioner, and were of opinion that 'continued usage, in ordinary circumstances, ought in matters ceremonial to be so far the rule as to protect unwilling parishioners from arbi

trary change, even though the change may seem to be within the letter of the law.' The Dean of Westminster and Mr. Coleridge (now Lord Coleridge) also signed the report, but with the protest that they declined, since the Church of England had always contained within it two parties, one caring much for outward observance whilst the other was careless about or hostile to it, and therefore room for both must be found in it, to join 'in any recommendations which have for their single object the attainment in the services of the Church of a rigid uniformity in matters not essential.' Lord Beauchamp did not sign the report.

The Third Report of the Ritual Commission was issued in the January of 1870, and consisted of alterations and amendments in the selection of Lessons to be read at the time of Divine Service. 'On a careful revision of the present table of Lessons' (wrote the commissioners) 'we have thought it desirable to vary and shorten many of them. We have disregarded to some extent the present division of chapters when the continuity of the subject seemed to render such a course desirable. And while we have not felt ourselves justified in recommending any omission in the passages selected, we have endeavoured so to arrange the Lessons as to include whatever might be most conducive to edification when read in the general

congregation.' This report was signed by Sir Joseph, but with the following protest:

> As I understand the terms of her Majesty's Commission, I consider that this report should not have been presented until after our inquiries on all the other matters referred to in the Commission had been completed. Subject to this observation, and in deference to the view taken by my colleagues, I have added my signature to this report.

The Fourth Report of the Commission was published in the August of the same year. It dealt with various matters that had long given rise to controversy in the Anglican Church. The chief points upon which it touched were the following. It prohibited the use of the wafer at Holy Communion. It asserted that 'the directions concerning the daily use of the Church Services are retained, not as a compulsory rule, but as a witness to the value put by the Church on daily prayers and intercessions, and on the daily reading of the Holy Scriptures.' It retained the use of the Athanasian Creed, but made a note to the effect that 'the condemnations in this confession of faith are to be no otherwise understood than as a solemn warning of the peril of those who wilfully reject the Catholic faith.' It sanctioned, when necessary, the administration of the Holy Communion to several persons at a time. It permitted to the minister in the use of the Burial Service a certain

discretion which justified him in not using the office 'for any that die unbaptised, or excommunicate, or have laid violent hands upon themselves.' Certain alterations were also sanctioned in the use of the Marriage Service. But the head and front of all offence was untouched. The Ornaments rubric, the abuse of which had, more than any other cause, given rise to the issue of the Commission, was retained without either alteration or explanation. To this report numerous protests were attached. Among the number was the following from Sir Joseph:

I have humbly to submit to your Majesty, that in making some of the recommendations contained in the schedule to this report, the authority conferred by your Majesty's Commission has been exceeded, whilst in other instances the duty enjoined by your Majesty has not been fulfilled.

The leading object to which our attention was directed, was the explanation or amendment of the Rubrics, Orders, and Directions, for regulating the course and conduct of public worship, the administration of the sacraments, and the other services contained in the Book of Common Prayer (from varying interpretations put upon which differences of practice had arisen), so as to secure general uniformity of practice in such matters as may be deemed essential. The Ornaments rubric, from the varying interpretations of which recent innovations on long established usage in the Church have arisen, has been left without amendment or alteration. In our First and Second Reports we set up the standard of established usage in the Church and suggested a remedy to restrain certain deviations therefrom, but whether this

rubric is consistent with such usage is not within our province to determine.

From the evidence set forth in the appendix to our First Report, and the recital in your Majesty's Commission, it appears that the differences of practice that have arisen out of the varying interpretations of this rubric relate to matters that are deemed essential.

With reference to the annotation proposed to be made in explanation of the penal clauses of the creed commonly known as the Athanasian Creed, I humbly submit that we were not authorised by your Majesty to suggest any alteration in this or any other part of the services set forth in the Book of Common Prayer, and least of all by the imposition of a meaning of which the words are not susceptible.

As to the Burial Service the recommendations made are also in excess of our authority under your Majesty's Commission.

In spite of these investigations, it must be admitted that the labours of the Ritual Commissioners, like the clauses of the Public Worship Regulation Act, have done little to remedy the evils complained of.

Whilst the First Report was being drawn up Sir Joseph Napier had been promoted to a seat after which he had long hankered. Owing to the resignation of Lord Derby from ill-health, Mr. Disraeli was called upon to exchange the office of Chancellor of the Exchequer for that of Prime Minister. As had been agreed upon at the formation of Lord Derby's Cabinet, Lord Chelmsford now resigned, and was succeeded upon the woolsack by Lord Cairns. Shortly after the

elevation of this warm friend of the subject of this biography to the Seals a vacancy occurred in the Judicial Committee of the Privy Council by the death of Lord Kingsdown, and Sir Joseph, recommended by Lord Derby, was selected by Mr. Disraeli to fill the post by appointment under the Queen's warrant dated March 28, 1868. The office was one which Napier had coveted ever since his resignation of the Irish Chancellorship. Writing to Mr. Disraeli he thus acknowledged the honour conferred upon him.

1 Whitehall Gardens, Friday.

My dear Mr. Disraeli,—I have to express to you my grateful appreciation of the kindness with which you have acted with respect to the arrangement for my taking the vacant seat on the Judicial Committee of Council. It is a satisfaction to me to receive this honour from my old political chief, who has always acted towards me with kindly and considerate regard which I have not forgotten.

Your faithful and obliged

JOSEPH NAPIER.

Right Hon. Benjamin Disraeli, M.P.

For the next six years Sir Joseph was frequent in his attendance on the Judicial Committee, and his judgments are reported in 'Moore's Privy Council Cases,' commencing with the fifth volume of the New Series. From an examination of these reports it will be found that Sir Joseph was often called upon to be the spokesman of his colleagues and to deliver judg-

ment. Appeals from the Admiralty and from the Supreme Courts of New South Wales, Victoria, South Australia, Hong Kong, and the Cape of Good Hope were the cases which chiefly fell within his province. During the hearing of the three notorious ecclesiastical suits, The Bishop of Cape Town *v.* The Bishop of Natal, Martin *v.* Mackonochie, and Sheppard *v.* Bennett, Sir Joseph was also one of the judges on the Committee.

CHAPTER X.

IRISH IDEAS.

Where law ends, tyranny begins.—*William Pitt, Earl of Chatham, Speech*, January 9, 1770.

At this time the burning question of the hour was the fate of the Irish Church. Was it to be severed from the State and its revenues confiscated, or was it to be retained in its customary power and position? Those were the two great questions, and to that issue party hostilities had now been narrowed. The Liberals voted for its abolition; the Conservatives, on the other hand, were hotly in favour of its maintenance. 'You cannot amend the Irish Church,' cried Mr. Gladstone, 'in one respect or direction without offending in some other respect or direction, and making the case worse than before. The reason of it is this, that there is no basis. It is wholly disabled and disqualified for performing the purposes for which it exists, and consequently I spoke in literal truth and not in mere sarcasm when I said "You must not take

away its abuses, because if you take them away there will be nothing left."' Mr. Disraeli held a different opinion. 'The Irish Church,' said he, 'ought to be maintained. Its subversion would aggravate religious hostility and party rancour, would suppress a resident class of men whose social virtues are conducive, as all agree, to the welfare of the country, and would further diminish the security of property in a land where its tenure and enjoyment are not as unquestioned as they have hitherto been in other parts of her Majesty's dominions. But even in Great Britain the spoliation of the Church of Ireland would not be without its effect. Confiscation is contagious; and when once a community has been seduced into plunder, its predatory acts have seldom been single.'

We know the result of the contest. The House of Commons was in favour of the 'Irish ideas' of Mr. Gladstone, and supported his views as to the disestablishment and spoliation of the Irish Church. Mr. Disraeli was of opinion that the popular assembly did not represent the feeling of the nation on the subject; he therefore dissolved it and appealed to the country. His appeal disappointed his expectations; the tone of the country proved adverse to the maintenance of a Conservative Cabinet, and the strength of the Liberal opposition was increased by a majority of over a hundred. Mr. Disraeli bowed to the feeling of the

country, and resigned before the meeting of the Houses. The Liberals, at the head of whom was Mr. Gladstone, now returned to power, and a strong administration was formed.

The fate of the Irish Church was soon decided upon. Shortly after the assembling of Parliament the new Prime Minister introduced his memorable measure. The Church in Ireland was to cease to be recognised by the State the 1st of January 1871; the right of appointing Irish Bishops was to be abandoned by the Crown, and the Irish Bishops were no longer to have seats in the House of Lords; a governing body representing the clergy and laity of the Irish Church was to be elected and legally incorporated by the Government. Then came the disposal of the plunder. Mr. Gladstone estimated the gross value of the Irish Church property at 16,000,000*l.*; from this he deducted 4,900,000*l.* as the life interest of incumbents of all kinds; then as compensation to curates 800,000*l.*; for other compensations 900,000*l.*; and for Maynooth engagements 1,100,000*l.* A large surplus however would still remain, and with this the Prime Minister proposed to make provision for the blind, deaf and dumb, and other charities and lunatic asylums for the relief of unavoidable calamity or suffering, but not so as to cancel the obligations of property for the relief of the poor.

When the details of this scheme became known across St. George's Channel great was the outcry raised by the members of the disestablished and despoiled Church. An indignation meeting was held in Dublin by the members of the Church Conference which was crowded to the very doors. Sir Joseph Napier was present, and as a lawyer was especially entrusted with a resolution stigmatising the proposed alienation of the property of the Irish Church as an act of injustice unparalleled in the history of constitutional government. He confined himself strictly to the terms of his resolution.

He had not, he said, to deal with the question whether the State might think fit to withdraw from its connection with the Church—that was a great question, perhaps the greatest of all political questions, but it had been already dealt with exhaustively by other persons. The question for him to consider was whether the State might alienate property freely given to the Church for Church purposes and still wanted for them. Could it ever be said that if a husband was base and faithless enough to desert his wife, he should make his desertion of her the ground of claiming to carry away her separate property? She might justly say, If you desert me, I shall require it more than ever to maintain my position and support my household. Forty years ago, when

the title of the Church to her property was called in question, evidence had been given with regard to it by the Professor of Canon Law at Maynooth. He said, 'It therefore appears that the present possessors of Church property in Ireland have a just title to the same on all the principles laid down by the Pope in the rescript before us.' Forty years had since elapsed, during which Ireland had undisturbed enjoyment. She had the proposed protection of oaths and pledges in abundance. He asked, then, if Ireland had admittedly a just title in 1826, was it not an act of injustice now to seize on the whole of that property as if it were the forfeiture of an attainted traitor? The Irish Church was a spiritual institution as the Church of Christ before the English invasion or the intrusion of the Papacy. It got its property as the Church of Christ in possession. Why then should it be stripped of its common law rights? Why should the Irish Church be dealt with as a mere civil corporation created by royal charter? Why should it be treated as a department of the civil service under the control of the Government? Her endowments were intended to be a permanent provision, why was she to be robbed of them?

Is it come to this (asked Napier), is it come to this, in our day—that grants made to a sycophant courtier or to a favourite mistress are to be held sacred by the Whig politician and

historian, that they are to be regarded as so sacred that to annul them would shake that confidence in the security of property which is the very basis of civil society, and that grants by a Protestant Sovereign to his own Church for ministering the pure Word of God and the Sacraments of Christ—for maintaining that Church in its difficulties and struggles in the province of Ulster which it was part of a great policy to settle and to civilise—that these are to be treated as at the disposal of Parliament at its will and pleasure for party and political purposes? If the former grants could not be taken without danger to the general stability of property,—if the taking away of those grants was robbery, I would ask by what name shall I characterise, according to truth and justice, the alienation proposed by this Bill? Supposing I am right then, in my position, that these grants differ not from private donations, I ask what right has the State to take away this property from us? We have every kind of title that can be imagined. We have even the canon law of Rome recognising our title as just. These endowments are wanted for their original purpose. The donors' intent was that they should remain for these purposes. Had those who settled in the parishes for which this provision was made, have their descendants, no vested interests in the permanence of ministrations intended to be provided for? Have the parishioners now no vested interest? The clergy are but the ministers for the time being of the people. The provision secures a recompense for the discharge of their duties—for the labourer is worthy of his hire; but the substantial interest, the true vested right, is in the people; it is a vested inheritance for them and for those who are to come after them; and we are bound by every sense of duty to God to maintain their right as far as we can by every lawful means.

A Church can be established in the true sense of the word although not connected with the State. But it is said because the State coalesced and became connected with the Church here, therefore every grant is to be subject to the disposal of Parliament. I say that these endowments were gifts to the Church as a Christian Church, and if she is not to be protected by her connection with the State, I say again that the State has no more right to alienate her property than a faithless and deserting husband would have to spoliate his wife of her separate estate. It is the Church's property, in which her laity have a permanent vested inheritance. Their right cannot be weakened because of the sacredness of purpose which belongs to it. No. Bishop Butler, when walking one night in his garden with his chaplain, said, 'What reason is there to suppose that the Almighty does not sometimes afflict nations with insanity as well as individuals?' If I am right in my general principles, how *a fortiori* do they apply to this country? How *a fortiori* do they apply to the case of those who, confiding in the faith of English protection, upon the faith of the perpetuity of Church ministrations, have settled here with their families? I refer to fundamental laws under which a social structure has been built up and the settlement of property secured; and to be suddenly struck down, deserted, and spoliated by those who ought to be our chief protectors, I say before God and man it is an unrighteous and oppressive wrong, and will, if perpetrated, leave an indelible stain upon the honour and the faith of England. There is one thing more. It is stated in the resolution that there is no precedent for this—no constitutional precedent for it. In the House of Commons none could be produced. Allusion is made in the resolution to the danger to other properties. If you upheave so great a foun-

dation of property as this, you violate the rules and maxims which give stability to all property. What said Edmund Burke? 'It is in the principle of injustice that the danger lies, and not in the description of persons on whom it is first exercised. The great source of my solicitude is, lest it should ever be considered in England as the policy of a State to seek a resource in confiscations of any kind.' Such were the reflections of this great statesman.

Well, then, I think I have made out my case. I think if ever there was a title to property having the highest sanctions—British law, canon law, prescriptive right, natural justice, eternal equity, the principles of free constitutional government—if these ought to secure property, we are bound to preserve this property for its permanent purposes. We may lead a forlorn hope, but I believe in my conscience, and I say it solemnly and deliberately, never had men a more responsible position or a more righteous cause. If it be a forlorn hope, then the more chivalrous should be our courage and the more firm our fidelity. We can leave the future with the Almighty in His inscrutable wisdom; our part is present duty. Whatever it may be His will to put upon us, let us remember this, that we contend for principles indestructible as justice and immutable as truth.

This opposition however had been raised in vain. The Irish Church Bill was carried through the Commons by a majority of over a hundred, whilst in the Upper House, the peers, aware that the country was in favour of the measure, contented themselves with fighting for certain compromises, and, after these had been agreed upon, gave their sanction to the

disestablishment and disendowment of the Protestant Church in Ireland.

It is melancholy to think how all the prophecies uttered by Sir Joseph Napier and other representatives of the Conservative party, as to the results that would ensue from the downfall of the Protestant Church in Ireland, have been fulfilled. It was said that the disestablishment of the Irish Church would weaken the power of the Crown in Ireland; at no time in the history of Ireland has the royal supremacy been more openly disregarded and set at defiance than during the last decade and a half. It was said that Rome would wield an authority over the island such as the Papacy had seldom before exercised; never has Ireland been more submissive to the commands of the Vatican than of late years. It was said that by the disestablishment of the Protestant clergy the Irish peasantry would lose the help afforded them by landlords who were well-to-do and were always resident; many of the Protestant clergy on receiving their compensation allowances quitted the country and entered upon colonial or continental chaplaincies, thus leaving the Irish peasant to the tender mercies of a callous and impoverished priesthood. It was said that Ireland, having found that a course of intimidation was the only method to obtain her ends, would on the overthrow of the Irish Church make

other demands upon the State, and press her suit by menace. Have not recent events plainly revealed the nature of the demands of Ireland and the resources Irishmen have adopted to enforce obedience to their requests?

The first branch of the Upas tree had been lopped off, the second was now to follow. There had been no secret that the disestablishment of the Irish Church was to be followed by an Irish Land Bill. Shortly after the opening of the Parliament of 1870 Mr. Gladstone, basing many of his clauses on the four Bills introduced by Napier in 1852, brought in his measure to reform the land laws of Ireland. Though it was the wish of Mr. Disraeli to deal with his rival's scheme in a candid and conciliatory spirit, it was necessary for him as the leader of the opposition to be prepared to act the part of critic. He required coaching up, and there was none at hand to perform the task. Sir Joseph was in Dublin, busy with Church matters and the affairs of Trinity College. Mr. Disraeli now remembered him of his old colleague, and how as Attorney-General he had been entrusted to pilot the Conservative land schemes through the House of Commons. Where then could a better adviser be found than in Napier? Mr. Disraeli wrote to Sir Joseph reminding him how eighteen years ago they first conferred together about an Irish Land

Bill, and how advantageous it had been for him, the writer, to have possessed such an adviser.

Now (writes the leader of the opposition, Feb. 21, 1870), I am in a very different situation; not a single Irish lawyer in the House of Commons, at least on our benches, except Ball [afterwards Attorney-General and Lord Chancellor of Ireland], who is of course in the diocese of Armagh. Even Cairns has departed for Mentone. On the 7th I have to express my views on the Government Bill. What a situation for the leader of a party—as Bright says, still a great party! Under these circumstances I write to you, my old confederate. Can you find time from your œcumenical council to give me the result of your reflections on the Government scheme, and such materials as may be opportune and profitable to me? I don't even know whether the Ulster right can be enforced in a court of law, and there is nobody here to tell me; I must therefore summon Napier to the rescue.

How Napier came to the rescue no material before me exactly explains. Neither letters nor notes upon this subject have been preserved. If, however, we refer to the speech delivered by Mr. Disraeli (March 11, 1870) in the House of Commons, criticising the measure of the Government, it is not difficult for us to ascertain the nature of the 'reflections' furnished by Sir Joseph. Mr. Disraeli proved himself a most apt pupil, and the speech that fell from his lips on that occasion was lucid, critical, and replete with technical knowledge. For much of this technical

knowledge it is not utterly preposterous to suppose that he was indebted to the comments and suggestions of his 'old confederate.'

During the greater part of this year Ireland still continued to absorb much of the attention of the Government. In spite of the overthrow of the Irish Church, the clauses of the new Land Bill, and the clemency of the landlords (perhaps on account of that clemency), Ireland refused to be satisfied or to desist from her work of agitation and conspiracy. The Secret Societies were as active as ever, inciting the peasantry to commit agrarian outrages and to enter upon open revolt against the Government. So grave were the disorders that existed in Westmeath and its neighbourhood, that Lord Hartington, then Chief Secretary for Ireland, felt himself compelled, early in the session of the next year, February 27, 1871, to appeal to the House of Commons for a Committee to investigate the causes which had led to the reign of terror that prevailed across St. George's Channel, and to obtain additional powers for the Government. His lordship drew a painful picture of the influence which the Ribbon Society exercised; how murders were committed, how landlords were unable to enforce the commonest rights of property, and how farmers were crippled in their efforts to obtain labour. He did not ask, said Lord Hartington, for a Committee to

provide a remedy, for that was the duty of ministers; but he wanted a Committee to be formed so as to secure a thorough investigation of the case and thus satisfy the House that when the Government asked for any further powers their demands would be justified by necessity. There had been a precedent, continued the Chief Secretary, for such a request. In 1852 a Committee had been constituted at the instigation of Mr. Napier, then Attorney-General for Ireland, to inquire into the state of Armagh, Monaghan, and Louth. Lord Hartington concluded by moving 'that a Select Committee be appointed to inquire into the state of Westmeath and certain parts adjoining of Meath and King's County; the nature, extent, and effect of a certain unlawful combination and confederacy existing therein, and the best means of suppressing the same.'

Sir Joseph wrote to Mr. Disraeli on the subject a few days before the motion was actually presented to the House:

4 Merrion Square, Saturday.

My dear Mr. Disraeli,—With reference to Lord Hartington's motion, I need not make comments that are mere commonplaces, but I think I may properly refer you to the course we took as to putting down Ribbonism in 1852. With your sanction at the time, I moved for a Select Committee on the subject.[1] We had a searching, open, and complete inves-

[1] See *Hansard*, vol. cxix. p. 1171, March 15, 1852.

tigation of the subject, and the law was firmly, resolutely, and impartially executed, so that at the end of that year Ribbonism was no longer rampant in the districts specially dealt with. I presume the reason for asking for a Secret Committee [the Committee was first to have been secret, but was afterwards changed into a select one] is to suggest that there is something new and mysterious that requires aid and advice from a Parliamentary Committee conferring in secret. But the plain truth is that the Irish policy of Gladstone has been regarded as the result, if not the recompense, of a movement by which England was frightened into concessions that cooled her friends and heated her enemies. They are simply improving the occasion. They have got leverage; each item of concession will help to whet their appetite for more, and their motto assuredly is:

Nil actum reputans, si quid superesset agendum.

The grand aim and object is the breaking down of English rule, and the complete separation of Ireland from England. [How truly Napier foretold the policy of the Parnellites fifteen years before it was endeavoured to carry it out!]

To be driven to such an expedient as to ask for a Secret Committee is a terrible comment on Gladstone's Upas tree policy. You need not trouble yourself with answering this, as I well know how fully you are occupied. If in any way and at any time I may be useful, I need not say you can command the services of your old comrade and friend,

JOSEPH NAPIER.

Right Hon. B. Disraeli, M.P.

As to the difficulty of obtaining witnesses to appear before the Committee, Sir Joseph says:

I presume that the difficulty now felt is, to get witnesses to come forward to give evidence so as to get convictions in cases in which the Ribbon Society are concerned. But when it is known that the Executive Government are thoroughly in earnest and resolute, this difficulty has been overcome.

Mr. Disraeli was not slow to use his powers of sarcasm in attacking this motion of Lord Hartington. Considering, he said (February 27, 1871), that two years had passed of constant legislation by a Government specially elected to introduce an entirely new system in the administration of Ireland, it must certainly be painful to have to admit that the labours of the last two sessions had been in vain. Then as to the Committee, which was at first to have been a Secret Committee, and eight hours afterwards was turned into a Select Committee, he branded such change of opinion as indicating 'a tone of levity in dealing with a great question which ought not to pass unnoticed. Why had Lord Hartington asked for a special committee of inquiry? A committee of inquiry for such purposes was always in existence—it was the Cabinet of the Queen.'

The noble lord (said the leader of the opposition) has made some reference from that richness of precedent with which he has been crammed on this occasion to what occurred in 1852, and in the midst of the distress of this regenerating Government of Ireland, supported by a hundred legions and

elected by an enthusiastic people in order to terminate the grievances of that country and secure its contentment and tranquillity, he must needs dig up our poor weak Government: 'There was Mr. Napier, your Attorney-General, he moved for a Committee, and you were a member of that Cabinet.' Yes (cried Mr. Disraeli), but *if I had had a majority of one hundred behind my back I would not have moved for that Committee.* I did the best I could, and I passed a good Bill by a respectable majority. But was the situation in which I was placed similar to the situation of her Majesty's present ministers? Look for a moment to the relations which this Government bear to the House of Commons with regard to the administration of Ireland. The right hon. gentleman opposite [Mr. Gladstone] was elected for a specific purpose: he was the minister who alone was capable to cope with these long-enduring and mysterious evils that had tortured and tormented the civilisation of England. The right hon. gentleman persuaded the people of England that with regard to Irish politics he was in possession of the philosopher's stone. Well, he has been returned to this House with an immense majority, with the object of securing the tranquillity and content of Ireland. Has anything been grudged him? Time, labour, devotion—whatever has been demanded has been accorded, whatever has been proposed has been carried. Under his influence and at his instance we have legalised confiscation, consecrated sacrilege, condoned high treason; we have destroyed churches, we have shaken property to its foundation, and we have emptied gaols; and now he cannot govern a country without coming to a Parliamentary committee! The right hon. gentleman, after all his heroic exploits, and at the head of his great majority, is making government ridiculous.

Had Lord Beaconsfield been spared to look upon the first half of the year of grace 1886, cannot we imagine the nature of his comments upon the exploits of the right hon. gentleman?

'Irish ideas' of a minor and exclusively local character were at this time also occupying much of the attention of Sir Joseph Napier. A controversy had arisen with regard to the constitution of the University of Dublin and its relation to Trinity College which was referred to the Vice Chancellor for his consideration. Napier investigated the matter, and published a thesis, entitled 'The College and the University,' which was warmly approved of by Lord Cairns. The conclusions arrived at by the learned author were as follows:

1. That the College had certain University privileges which had been conferred on its *studiosi* and on its governing body.

2. That the University (properly so called) was a distinct corporate body.

3. That the *studiosi* had not, and never had, the right to elect any of the principal officers of the University.

4. That the governing body of the College had the power of making the *leges Academiæ* with reference to the conferring of degrees, and were not con-

fined to the adoption of laws of either of the Universities of Oxford or Cambridge.

5. That the true intent and purpose of the charters and statutes was to deal with the College and the University as integral parts of one educational institution, in which a complete course of instruction in arts and faculties was to be provided.[1]

For the second case which Sir Joseph was called upon to decide, I quote entirely from the volume of Mr. Burke.[2]

In connection with the subject of University education a question of much nicety arose out of the fellowship examination which took place on May 23, 1872. Mr. Purser, one of the successful candidates, was a Moravian. Before the examination counsel were consulted as to whether in the event of his being entitled by superior merit to one of the two fellowships then vacant, he would be eligible, and would not be disqualified by the religious test. Counsel differed in opinion, one holding that the Board were not debarred by the terms of the statute from electing him, while another held that they were. In this dilemma they consulted Sir J. Napier as to the course they ought to take, and he advised them to elect the two best candidates, and that in the event of Mr. Purser being disqualified, the third would succeed to the second place without having another examination next year.

After the examination had concluded, Mr. Purser was declared entitled to the first fellowship, Mr. M'Cay to the

[1] *History of the Lord Chancellors of Ireland*, 1186–1874. By Oliver J. Burke, p. 302.

[2] *Ibid.* pp. 302–4.

second, while Mr. Minchin was the third and Mr. Pattison the fourth, in order of merit. Mr. Purser, a Moravian, as we have said, admitted that he had no objection to attend the services of the Church of Ireland and to receive the sacrament according to the rites and ceremonies of that Church, but he declined to make the statutable declaration. The Provost thereupon refused to admit him, although elected by the Board, to the vacant fellowship.

On June 11, 1872, the question was argued in the Examination Hall of the College, before the Visitors, Sir Joseph Napier and the Archbishop of Dublin.

The Solicitor-General, Mr. Palles, Q.C. (with Mr. Murray), appeared as counsel for Messrs. Minchin and Panton; Mr. Jellett, Q.C., and Mr. Bewley, for Mr. Purser; Dr. Ball, Q.C., Messrs Tandy, Q.C., and Webb, for Trinity College. The case of Mr. Purser involved the question whether, although in other material respects he was adjudged to be superior to his competitors, he was legally disqualified to be elected a fellow, inasmuch as at the time he was a member of the Moravian Church.

The Vice-Chancellor of the University, Sir Joseph Napier, held that the case was not one of a disqualification distinctly and directly provided for in the College statutes, either expressly or by clear and manifest implication; and that beyond this, it was for the electors to decide according to the terms of their electoral oath and their conscientious judgment, which was in its nature final and conclusive. The Archbishop of Dublin intimated his opinion to be that a question of theology was involved, upon which he proposed to communicate his opinion to the Chancellor of the University (Lord Cairns). The Vice-Chancellor proceeded on the principle established by the decision in the case of Downing College, Cambridge (3 *Mylne & Craig*), an authority which he discovered by his

subsequent research, and fully confirmed his view; but the opinion of the Chancellor was in itself and by the statutes conclusive. The opinions of each of the Visitors having been communicated to him, together with a full report of the arguments, Lord Cairns arrived at the same conclusion as the Vice-Chancellor, and the decision was made accordingly. The Vice-Chancellor gave his reasons in an elaborate judgment, in which he dealt with the arguments and authorities relied on by counsel. The Archbishop on this occasion stated that having seen the opinions of the Chancellor and the Vice-Chancellor, he thought it could not be of any service to the parties for him to offer any opinion upon the question of Mr. Purser's eligibility. In other respects he concurred with the decision. The decision has been signed by the Visitors and countersigned by the Chancellor of the University.

Mr. Purser being thus declared eligible was called upon to make the declaration required to be made by a fellow after his election and before his admission to the full rights of fellowship. This he declined to do, and the fellowship thereupon was declared vacant.

Another Irish matter of much importance was also at this time engaging the attention of Napier. Upon the disestablishment of the Irish Church, Sir Joseph took a most active part in the reconstruction of the Church of Ireland. He rendered valuable service in framing its new constitution, whilst numerous important Acts of Synod and rules of debate were shaped by his hand. He settled the position the Bishops were to occupy under the new order of things, he laid down the law as to the use of

ornaments, he regulated the relations between the clergy and the laity, and he opposed the introduction of any material alterations in the Book of Common Prayer. A party then existed which was anxious, now that the Church was disestablished and entering upon a new career, to make certain changes in the Ordination Service. These changes Sir Joseph objected to as neither safe nor necessary. He could not see there was a sufficient reason for the Church of Ireland to take up an isolated position, and frame for herself a new form for conferring Orders, which the law of the Church of England might not admit to be legally sufficient under the Act of Uniformity, and which therefore might not be recognised as sufficient in other parts of the British Empire. It would, he considered, be a very grave matter for the Irish clergy if it should be decided that those who had obtained Irish Orders under this meditated new form were to be excluded from officiating in the Church of England or elsewhere within the Anglican communion.

I cannot but feel (he wrote) that this might work injuriously to our Church here, at a time when it is of vital importance to secure the best men we can attract to the work of the ministry in Ireland; men of good education and liberal minds, as well as of sound religion. I do not believe that such would be kept away by our retaining the existing Ordinal, with its authorised exposition; but the change proposed might have the effect of ultimately depriving the Church of

Ireland of the services of some who might otherwise hereafter be found among her most efficient and earnest ministers.

Upon these matters Napier thus writes to his great friend the late Lord Harrowby, with whose political and religious opinions he was always in complete accord:

I quite concur in the view you take as to the policy of keeping the laity from being swamped by the clergy. In truth it is most desirable to prevent to the uttermost any ultraism on the part of either body. What we have most to apprehend is the narrowness that not unfrequently accompanies earnestness. I hope we shall keep in communion with the English Church, and not allow our comprehensive system as constituted by our Articles and formularies, soundly interpreted in their large and full meaning, to be limited or narrowed so as to humour any clique or section, whether of Paul or of Apollos. . . . For my part I cannot but feel that the policy of the Government has put in jeopardy the union between the countries. I see that the Ulster proprietors are about to form a kind of Ulster Protestant League. We must all do the best we can under our difficulties, and by the faithful fulfilment of duty and unswerving confidence in the blessing and guidance of Him without whom nothing is strong, nothing holy, we may weather the storm.

Napier was opposed to any alterations being effected in the Prayer Book which had for their object to repress the sacerdotal pretensions of the Irish ritualists.

For my own part (he writes again to Lord Harrowby), I have much doubt whether any change would have the desired

effect. There might perhaps be some alterations that would leave the words less liable to be misused or misunderstood, but verbal precision is but a flimsy safeguard to restrain the sacerdotal invader from following up his aggressions. As to canons which are founded upon the recent decisions, the only objection would be that the multiplication of laws is not desirable. Some think it makes the matter more discernibly definite. If the decisions are the basis, there is no substantial objection to the declaratory canon. As to this I have no anxiety. The law as settled is enough for me—others may like a canon. . . . I am confident that in the main we will be able to keep in the *via media*, and to maintain our union and communion with the Church of England. It is, however, a very difficult problem to keep up popular earnestness and sympathy without getting into the groove of sect.

For the position and power which the Irish Church has been successful, thanks to its representative body, in maintaining and developing, it owes no little debt of gratitude to the labours and forethought of Sir Joseph Napier—a debt, let us add, which it has never attempted to lessen or disclaim.

On the adverse verdict of the country upon the Liberal Government at the general election which took place early in the year 1874, Mr. Gladstone resigned office, and Mr. Disraeli once more held the seals as Prime Minister. In England no obstacles presented themselves to the formation of an administration, but across St. George's Channel some little difficulty

arose as to the disposal of office. Lord O'Hagan had retired from the Court of Chancery, and a successor to the vacant post of Chancellor had to be appointed. It had been offered to Mr. Ball, one of the members for the University of Dublin, and at that time the most distinguished member of the Irish bar, and by him had been accepted. His presence could not, however, then be spared from the House of Commons, and he had to content himself, until his services in the popular chamber were no longer required, with the post of Attorney-General for Ireland. Accordingly, whilst the promotion of Mr. Ball was in abeyance, the Great Seal was put in commission, with Sir Joseph Napier, Mr. Justice Lawson, and Master Brooke as Commissioners. Sir Joseph was Chief Commissioner, and his eldest son William, of whom more hereafter, was appointed secretary to the Commission. During the next few months, from the February to the November of 1874, the work entrusted to Sir Joseph was enormous. In addition to hearing causes in the Court of Chancery and deciding cases in the Court of Appeal, he was Assessor to the General Synod which now regulated the affairs of the disestablished Church of Ireland, whilst as Vice-Chancellor of the University of Dublin his time was much occupied in the consideration of certain changes that were then proposed as to its governing body. Yet in his triple capacity as

judge, assessor, and vice-chancellor, he acquitted himself so ably of the different duties imposed upon him, as to receive the marked approval of all who were connected with him in his work.

On Friday, November 27, 1874—a day he ever remembered—Sir Joseph sat for the last time as President in the Court of Chancery. His fondly cherished son William had been seized with an illness from which he never recovered, and the stricken father had but one thought, to remain at the bedside of the sufferer until all was over. In ignorance of the affliction which was bowing him down to the very earth, the Lord Mayor of Dublin had invited Napier to a banquet to be given to her Majesty's Judges on the following Tuesday. The invitation was of course declined. At the banquet, Whiteside, now Lord Chief Justice, responded to the toast of the Bench, and took the opportunity to comment upon the 'headless Court of Chancery,' in allusion to the circumstance that no Lord Chancellor had as yet been appointed. The sneer was not however allowed to pass unnoticed. Three days before the Christmas of 1874 Mr. Justice Lawson, one of the Lords Commissioners, and Lord Justice Christian sat in the Court of Appeal in Chancery, there to deliver judgment on the last case in their list. It was also to be the last sitting of the Commissioners, for the day after

Christmas day Mr. Ball was appointed Lord Chancellor of Ireland. Sir Joseph Napier (whose judgment was read) and Mr. Justice Lawson concurred in the decision of the court below, and the appeal was consequently dismissed. Lord Justice Christian was somewhat of a different opinion from his colleagues, and in delivering his judgment thus concluded :

I have tried to make intelligible the considerations which, I must confess, have left me full of misgivings as to the soundness of this claim, though it has met with the approval of both the Lords Commissioners. Then the question presents itself—which is, under the circumstances, of little or no consequence to any one but myself—what course ought I to take? If I were sitting alone, and were hearing this case in the first instance, I believe that I should send it to a trial at law. But I am not hearing it in the first instance, and I am not sitting alone. I have the advantage of being associated with colleagues whose judgment, whose knowledge, whose conversance with the affairs of this court and exclusive devotion of their time to them, I can hold in that respect that, as when I find them agreeing with me I am encouraged, so when I find them differing from me I am instantly held in check. The latter is precisely the position in which I find myself at this moment, and which I have found myself in since the commencement of the present admirable constitution of this court. I say advisedly—and I am happy to take this, the last opportunity of saying it—the present admirable constitution of this court—headless though it be—a headless institution as, with exquisite appropriateness of time and place and circumstances, it has been lately called by one who seldom stops to measure his phrases by his knowledge of whatever

subject he may take a fancy to declaim about—I have great pleasure in informing that very eminent legal personage, as he has been good enough to concern himself about us, that the Court of Chancery in Ireland is now, and has been for the last nine months of this year, under very excellent headship and leadership indeed—and in particular as to this its upper branch, of which I can speak with some knowledge—this, the Court of Appeal in Chancery—this, let me remind our censor, the first and most exalted, without a single exception, among all the courts within this realm, whether of law or of equity, as the court must needs be which hears appeals from the court of the Lord Chancellor himself, when we have the felicity to possess one—that never since it was founded has it been better headed, better guided, better led, smoother in working, more harmonious in mutual help and co-operation, more efficient in every way for transacting the public business, than it has been during the last three terms of the present year.

CHAPTER XI.

SORROW.

> Verily
> I swear, 'tis better to be lowly born,
> And range with humble livers in content,
> Than to be perk'd up in a glist'ring grief,
> And wear a golden sorrow.
>
> *Henry VIII.*, act ii. sc. 3.

In the lecture upon Edmund Burke to which we have already alluded, Napier when commenting upon the honours proposed to be conferred on the great statesman, thus proceeds:

In the midst of all this Burke was bowed to the earth by a stroke of affliction, which left his home desolate and blighted his earthly hopes. The child of his young affection—the son of his bosom, whom he so tenderly loved, to whom he looked as the bearer of the title he had won and the inheritor of the property that he had with toil and effort secured,—he was now cut off; but a few months after Richard, his loved brother, had been taken to his rest. All, all were gone; he was now left in solitude and sorrow. In the celebrated letter which he wrote in reply to

the Duke of Bedford, the finest diatribe in any language for dignified rebuke, and unequalled in the solemn severity and the classic beauty of its composition, he says: 'The storm has gone over me, and I lie like one of those old oaks which the late hurricane has scattered about me—I am stripped of all my honours, I am torn up by the roots, and lie prostrate on the earth! There, and prostrate there, I must unfeignedly recognise the divine justice. . . . I greatly deceive myself if, in this hard season, I would give a peck of refuse wheat for all that is called fame and honour in the world.'

> Oh! Thou who driest the mourner's tear,
> How dark this world would be,
> If when deceived and wounded here,
> We could not fly to Thee.

He had made his will. After alluding in touching terms to his son's recent death, he says, 'According to the ancient, good, and laudable custom, of which my heart and understanding recognise the propriety, I bequeath my soul to God, hoping for His mercy through the only merits of our Lord and Saviour Jesus Christ. My body, I desire, if I should die in any place very convenient for its transport thither (but not otherwise), to be buried in the church of Beaconsfield, near to the bodies of my dearest brother and my dearest son; in all humility praying that as we have lived in perfect unity together, we may together have a part in the resurrection of the just.' What a grandeur (notes Napier) there is in this simple, solemn surrender of Burke to the infinite mercy and the sovereign grace of God!

A similar blow, from the effects of which he never really recovered, was now to fall with all its

crushing severity upon Sir Joseph. His eldest son, the pride and light of his house, who at that time was acting as secretary to the Commission entrusted with the custody of the Great Seal, was suddenly called to his rest in the vigour of his youth, and ere the promise of a brilliant career had had scope for fulfilment. William Napier appears to have been a young man of a singularly genial and kindly nature, and his loss was mourned by a large circle of friends. To the loving parents this sudden and unexpected death was a source of the bitterest grief. It was indeed one of those deep and silent sorrows which, ever fresh and ever present, is so seared into the heart that even the great consoler Time refuses to bring relief. Like the sincere Christian he was, Sir Joseph bent his head to the divine will. Yet, in spite of all his submission and resignation, it is evident from the letters before me that henceforth in this life there was to be little to cheer the once combative lawyer and eager politician before being summoned to follow in the steps of him he so passionately loved. The truths of religion brought comfort and consolation to Sir Joseph, as they have to many others in their dark hour of misery, but happiness was never again to be his Throughout the weary days before him, the

light of life and the joy of work were gone, and there now remained nothing this side the grave save to complete the task allotted him, inspired alone by the cold stimulus of duty.

Letters of condolence came in by every post, and if sympathy could have removed sorrow, the grief of the bereaved parents would have been a thing of the past. From the kindly list we select one or two which called forth special and characteristic replies from Sir Joseph. The first was from Mr. Disraeli, ostensibly upon the conclusion of the labours of the Commission charged with the trust of the Great Seal.

2 Whitehall Gardens, Feb. 6, 1875.

Dear Sir Joseph,—I cannot allow the Commission of the Great Seal to terminate in Ireland without offering on the part of her Majesty's Government our thanks for the zeal, industry, and learning with which the Lords Commissioners fulfilled the duties of that high office.

I shall feel obliged to you if you will convey to your late colleagues this sincere expression of our feelings.

I know too well that in the course of the discharge of those duties, you yourself had to encounter one of those calamities which tend for a time to paralyse both the intellect and the will. I will not presume to offer you consolation, but the sympathy of a true friend may perhaps be accepted.

Yours sincerely,

B. DISRAELI.

Right Hon. Sir Joseph Napier, Bart.

To this epistle Napier returned the following reply:

1 Whitehall Gardens, Wednesday, Feb. 10, 1875.

Dear Mr. Disraeli,—Your very kind letter was forwarded to me here yesterday. I fully appreciate the thoughtful attention that prompted you to write to me not only with reference to the services rendered under the Commission by which I was recently placed in a high and honourable office in Ireland, but also to convey your sympathy with me in the bereavement by which it has pleased God in His wisdom to afflict me.

The excellent and efficient colleagues I had, enabled me to earn the good opinion of her Majesty's Government, and indeed we laboured diligently to deserve it. For my own part I felt that it was a privilege and an honour to execute the functions of so high an office, and especially in the administration of justice in so high a tribunal. I appreciate sincerely the conveyance of the thanks of her Majesty's Government, and especially as coming from you, with whom I have been so proud to serve as a comrade. Still more under present circumstances am I touched and feel grateful for your kind and friendly sympathy under an affliction which has indeed weighed heavily upon me. What had made me happy whilst I was in the office of a Lord Commissioner, was the natural and just pride of a father in seeing the admirable and efficient manner in which my very dear son discharged his duties as our secretary and won the esteem and respect of all who knew him. It is not for me to say more than this—that his unexpected removal by death has left a void in my heart and a blank in my life that can only be filled by the Giver of every good and perfect gift.

According to your request I have communicated your

expression of thanks on the part of her Majesty's Government to my colleagues in the Commission, and I am quite sure they will receive it with the satisfaction that must always be felt by those whose discharge of responsible public duty has won for them an honourable and grateful recognition from the Queen's Government.

Believe me to be,

Your faithful and afflicted

JOSEPH NAPIER.

Right Hon. B. Disraeli, M.P.

Dr. Trench, the Archbishop of Dublin, who knew young Napier and fully appreciated the loss sustained, had written one of those letters of condolence to the bereaved parents, which only he could write, full of tender sympathy and lofty encouragement which soothed like a balm the stricken soul. Sir Joseph thus answered it:

South Kensington Hotel, March 30, 1875.

My dear Archbishop,—Although I expect to see you early in the next week at the Synod, I cannot defer the offering of our grateful thanks for your kind and consoling words in the time of our deep affliction. You had caught the principal characteristics of our beloved son—his devoted and dutiful affection for his parents, combined with an unselfish and earnest active benevolence. He was simple and modest, manly and sincere in his faith. His tender, watchful care as to everything connected with my wants and wishes endeared him to me in a way I could not describe. But all this has deepened the assurance that he sleeps in Him who died and rose again; and brings home with glad and grateful comfort

to the heart of the mourners the blessed truth that 'even so also them that sleep in Jesus will the Lord bring with Him.' Faith is the victory that overcometh the world. I pray earnestly for an increase of faith, and thus to realise the only consolation by which despondency is corrected and our hearts comforted and cheered by a humble but immortal hope of a blessed reunion. . . . Again thanking you for your comfortable words of sympathy and condolence,

I am, dear Archbishop,

Your faithful and grateful

JOSEPH NAPIER.

His Grace the Archbishop of Dublin.

It had been necessary after the lapse of several months for Lady Napier to try if by change of air and scene she could somewhat recover from the grave depression into which acute grief had plunged her. But memory was too tenacious of the past, and the benefit anticipated was not realised. Of what avail is change of scene when the mind is powerless to dispel the black clouds overhanging it? Does not Milton say?

> A mind not to be changed by place or time.
> The mind is its own place, and in itself
> Can make a heaven of hell, a hell of heaven.

Sir Joseph wrote to his wife:

I well know what your trial must be, but surely God will give the grace needed and the consolation prayed for, and graciously lead you on the way where dear Willy

saw 'the Light in the Valley.'[1] May He give you *that* heavenly comfort through Christ's merits and mediation! You can say as Dean Stanley said of Commodore Goodenough, 'His life was absorbed in duty, and duty was transfigured into happiness.' He has left a blessed memory, and proud indeed you may be to have had such a son. You shall find him in his Father's home, in the mansions where Christ has prepared a place for him. His memory has embalmed him and ever must be cherished. God encourages us to lift up our hearts and not to sorrow as those who have no hope, but to trust in the love of a blessed Redeemer, who has won the victory over death and the grave, and brought life and immortality to light by the Gospel. To you this great affliction must be very severe who have no definite duties to take off the strain of sorrow for such a loss. It has been indeed a stunning blow, and I do not wonder you don't find benefit from any particular move. What Wordsworth says is true—

> How vain, thought I, is it by change of place
> To seek that comfort which the mind denies.

As you can never see your beloved son until you meet him above, may that time encourage you to patience and submission. I pray that God will give you that strong consolation, and heal your sore affliction. He heals the broken heart, and makes all His dealings work for good to those that love and trust in Him; and though the light that shed such radiance on your path has sunk and left you cheerless—save as you are comforted by the blessed hopes of our dear Lord and Master, who will never leave or forsake them that trust in Him.

[1] The refrain of a hymn sung at certain services held by American Evangelists at Dublin—the last which young Napier attended.

As a source of solace in his grief, Sir Joseph now busied himself in penning a brief memoir of this cherished son for private circulation. A copy lies before me, rendered all the more sacred from being annotated by the loving hand of an affectionate mother. 'I have been left,' writes Sir Joseph touching this self-imposed task, 'to draw up this memoir of my son; though deeply it has affected me, a sad yet soothing office. He was to have written mine; God's will be done!'

Though keenly desirous of succeeding at the bar, and with every prospect of a brilliant career before him, young Napier had not confined his industry entirely to legal work. High-minded, singularly unselfish, and with a heart ever sensitive to suffering, he interested himself in various philanthropic labours. The motto of his life was 'never omit an opportunity of doing a kindness.' 'He took,' writes his father, 'a great interest in hospital work, and was honorary secretary to the Mercer's Hospital; he attended to its duties regularly, besides visiting patients with tender kindness.' The estimation in which he was held appears from the first Report of the Governors after his death, in which reference is made 'to the loss of their highly esteemed and much loved honorary secretary, the late Mr. William John Napier, in whose praise it is unnecessary to say more than

that he was ever zealous and self-sacrificing in his exertions on behalf of the poor of this charity. His exertions in the matter of the Hospital Sunday movement have been over and over again acknowledged, and his loss as one of the honorary secretaries has proved a matter of public regret.' To the Mercer's Hospital William Napier on his death left a couple of thousand pounds for the purpose of adding a wing to the building with a new ward to be called after his name, so as to perpetuate his memory in connection with the place in which he had worked so assiduously for the relief of the poor patients. During the last year of his life he was also actively engaged in helping Lord Brabazon to organise the Hospital Sunday movement.[1]

Early in the year 1874 young Napier had been appointed, as we have said, to the office of secretary to the Commission under which the custody of the Great Seal of Ireland was confided.

This gratified him much (writes Sir Joseph), for he was

[1] Amid political, commercial, and national excitement and disturbances that have been pressing upon public notice for some time, a work of great benevolence and usefulness has been quietly progressing to completion that deserves some recognition. Lady Napier and the late Sir Joseph Napier, desirous of erecting a memorial of their deceased son, set apart the munificent sum of 4,000*l.* to build and furnish the Napier Memorial Wing attached to the Convalescent Home near Dublin. Though designated a wing it is virtually a complete home in itself, forming an elegant addition to the main building.—*Daily Express.*

evidently conscious that he could discharge the duties of this office with credit and efficiency. This expectation was soon realised. The occasion brought forward prominently his remarkable fitness for administrative work. He possessed good common sense. His sagacity and readiness in making judicious suggestions, and in collecting complete information for Judge Lawson and me to aid us in the appointment and supervision of the magistracy (which was specially under our care) was soon appreciated; and I may use the words of the judge in a letter to me after his death in which he says, 'how deeply I have felt for you under your bereavement, and for the loss of him whom I so recently came to know intimately, and to admire for the zealous and conscientious discharge of all his duties.' I was indeed proud and happy (continues the fond father) to have such a son for my associate as confidential officer in the discharge of the high duties of the Commission, and to see with what fidelity and efficiency he discharged his part of them.

Yet it was the will of heaven that the post so satisfactorily filled was soon to fall vacant. Whilst fishing in Scotland, according to his annual custom, young Napier fell into one of the pools of the Spey, the result of the immersion being to bring on a disease of the spinal cord. For months he struggled to ignore and defeat the enemy, but the victory was not to be his. Late in the November of 1874 he took to his bed, from which he never rose again. He was buried in Mount Jerome Cemetery, where in the mortuary chapel hangs a tablet with this inscription:

SACRED TO THE MEMORY
OF
WILLIAM JOHN NAPIER,
ELDEST AND BELOVED SON OF
SIR JOSEPH AND LADY NAPIER.
BORN OCTOBER 31, 1837. DIED DECEMBER 3, 1874.

His short but useful life was adorned
By gentle goodness and active benevolence,
The love of what was pure and just,
His devoted and dutiful affection for his parents,
And by a simple, humble, and sincere faith
In Christ, his Lord and Saviour.

The loss of this promising young man was indeed irreparable to his deeply grieved parents. 'He never caused me trouble or grief,' writes Sir Joseph, 'by any unworthy conduct; he kept the commandment with promise, and will wear the crown that fadeth not away. His affectionate attention to me at all times, and his vigilant care of me in small things as well as greater; his seasonable suggestions, discreet and dutiful, made our intercourse (especially of late) to be a blessing for which I am deeply thankful to God; and his rare affection for his mother, passing the love of women, has left to both of us the solace of blessed memories crowned with blessed hopes, but a blank in our lives that God only can fill.'

The close intercourse and intimacy of the last eight months (writes Master Brooke, one of the Commissioners, to Sir Joseph at this date) have made me a competent witness to the greatness of your loss. When time shall have

mitigated the sharp pain of the stroke, I doubt not you will look back with thankfulness upon the opportunity which his short official life afforded of manifesting his remarkable talent for business and the activity of his benevolence, which converted so often the details of duty into self-denying and unwearied exertions to find out suffering and to remove it. His death is a sore loss to the lunatics and wards under the care of the Court. I believe they never were so looked after and relieved from remediable evils and abuses as while he cared for them. So long as our joint office shall continue his loss to us is irremediable. It was to me a most pleasant companionship to work with him, which no cloud of difference ever darkened. From him I always received the most valuable counsel and the most active co-operation.

The immediate cause of young Napier's death had been occasioned by his intense interest in the lunacy wards. He had brought on an acute attack of his complaint by imprudently exposing himself to wet and cold in the over-zealous discharge of his duty whilst examining certain cases of insanity about which he was anxious.

The death of William Napier has been narrated at some length on account of the marked effect it exercised upon the career of Sir Joseph Napier. Between father and son the relations that existed were not those that usually obtain; to all who watched the intimate and confidential intercourse between the two, it seemed as if one were the elder and the other the younger brother. Each supplied

a want which the other lacked. Sir Joseph in all the graver matters of life gave the counsel which his superior wisdom, strengthened by experience, naturally commanded; he suggested the reading and superintended the studies of the young man, not wishing him to become, as he phrased it in one of his letters, a 'nisi prius buffoon,' but a sound and able lawyer. In his turn the son was of no little service to the father. Though young in years he was a far more astute man of the world than Sir Joseph, and his keen insight into character, which resembled almost an instinct, was often drawn upon to act as a corrective to the gentle, unsuspicious disposition of the father. It was not difficult for the plausible and designing to obtain their ends when once they began systematically to lay siege to the kindly nature of Sir Joseph. Lawyers, it is said, see the worst side of human nature, and are as the result of their experiences somewhat hard and cynical. Sir Joseph was a striking exception to this remark. His own character was so frank and guileless that, attributing the same qualities to those with whom he came in contact, he more than once would have fallen a prey to the knave and the schemer had it not been for the intervention of the more worldly-wise son. It was Willy Napier who saw through the tricks of the suppliant, who estimated at its right value the adulation of the

hypocrite, who distinguished between the piety and the fraud of the philanthropist and his scheming brother, who knew who were the deserving and who the designing.

Thus in the numerous matters of a more mundane character which a successful and prominent lawyer has to deal with, the relations were reversed, and the son developed into the confidant and adviser of the father. As he advanced in years he became not only the secretary, but the steward and man of business of Sir Joseph. In the eyes of the father the opinion of Willy was, if not infallible, at least generally so sound and far-seeing that it was seldom offered without being implicitly accepted. Often the young man was surprised that his father, a keen lawyer and practical politician, should not have arrived of his own accord at conclusions which to the son seemed so clear and self-evident. 'I suppose it is because he is a genius,' he more than once remarked to his mother.

When we remember that in addition to this advice and support afforded by the son, and upon which Sir Joseph relied the more as years rolled on, the fond and appreciative father saw in Willy Napier a companion with the same intellectual tastes, interested in the same studies, influenced by the same religious views, high-principled, manly, and good-

tempered—we can well understand how severe and crushing was the loss sustained by the bereaved parent.

> When sore affliction comes in the decline of life,
> It is like a storm which, in the rear of autumn,
> Shakes the tree that frost had touched before,
> And stript it bare of all its leaves.

CHAPTER XII.

FINIS.

Mark the perfect man, and behold the upright.—*Psalm* xxxvii. 37.

To live in hearts we leave behind
Is not to die.

THOMAS CAMPBELL, *Hallowed Ground.*

WITH the death of his son the public career of the subject of this biography may be said to terminate. The health of Napier, never at any time very vigorous, though always kept in harmony with his labours from the vitality of his nervous system, began perceptibly to fail now that his great stimulus to work and his one absorbing interest in life had been withdrawn. It was evident to all who met him at this time, that sustained industry and close attention to his duties were efforts with which he would gladly dispense. His old energy, and the liveliness which always characterised him when he had something to say or do requiring any strain upon his faculties, had deserted him. He became languid, listless; and exercise, to which he had ever been fondly addicted,

now distressed him, and the time devoted to it was day by day curtailed. He went about his duties as one in a dream, and seemed powerless to struggle against the apathy and depression which oppressed him. All these symptoms but heralded a general break up of the constitution. His old infirmity of deafness increased, and made the act of listening more and more of a labour that was irritating and injurious to him. The state of his health compelled him to absent himself oftener than had ever been his custom from his judicial and other public duties. At last all these premonitory symptoms culminated in an attack of paralysis towards the close of the year 1878, and Sir Joseph now saw that he had no alternative but to withdraw from all work, both public and private.

His first step was to sever his connection with the General Synod of the Church of Ireland. To that body he had ever since its institution been the staunchest of friends and soundest of advisers. Two letters lie before me giving careful and exhaustive accounts of the prominent part he played in the labours of the Synod, and how marked was the influence he exercised.

I had the pleasure of knowing the late Sir Joseph Napier well (writes Canon Jellett, of St. Peter's, Dublin, in reply to a request from Lady Napier for information as to the work of Sir Joseph in the Synod), having been brought much into

contact with him in the meetings of the General Convention and General Synod, and living in the same city and parish. His unvarying courtesy and friendliness I hold in affectionate remembrance, and even now, after ten years, recall with satisfaction the amiability of disposition ever manifested in his very countenance as he sat near to me in the Synod, when he acted as Assessor and I as one of the Honorary Secretaries.

Before the days of the General Synod, or of the General Convention which preceded it, Sir Joseph Napier took a deep interest in the Church of which he was an attached member, and in which he held a recognised place which his character and ability had secured him. When before the Irish Church was disestablished and disendowed, the Archbishops, Bishops, Clergy, and Laity of the Irish branch of the United Church of England and Ireland met in public conference in Dublin on April 13 and 14, 1869, Sir Joseph Napier took a prominent place. He was one of the twenty-five laymen of the united diocese of Dublin and Glandelagh, elected by the diocese to represent it in the Conference, other well-known representatives from the same united diocese being William Brooke, Master in Chancery, Right Hon. Vice-Chancellor Chatterton, Sir Edward Grogan, Hon. Judge Harrison, William D. La Touche, D.L., Hon. David Plunket, John Robinson, Right Hon. Sir Frederick Shaw, Right Hon. John E. Walsh, Master of the Rolls, A. S. Harte, LL.D., F.T.C.D., and Edward Cecil Guinness. The first resolution adopted by that Conference, which was moved by the Earl of Longford, is worth reproducing as showing the sentiments which prevailed amongst the Churchmen of that day, and which were strongly held by Sir Joseph Napier:

'That we, the Archbishops, Bishops, and Representatives of the Clergy and Laity of the Irish branch of the United Church of England and Ireland, in Conference assembled,

hereby record our earnest protest against the Bill for its disestablishment and disendowment which has been introduced into Parliament; and it is our solemn conviction that it is the duty of all who value the principles of the Reformation—to which the Church in Ireland, both in doctrine and ritual has faithfully adhered—to resist the efforts now being made to overthrow an institution so calculated under God's blessing to promote social happiness and true religion amongst us; and further, that we regard the Bill now before the House as a dereliction of the duty of a Christian State, as an abandonment of the supremacy of the Crown, as a subversion of rights of property secured by fundamental laws and international compact, as an offence and injury to our Church at large, and to many of our brethren an irreparable wrong.'

This resolution was carried unanimously. Whereupon the following was moved by Sir Joseph Napier, seconded by Rev. T. Romney Robinson, and, with an addition of the last sentence at the end suggested by Mr. Robert Hamilton, also passed, 'That the alienation of the property of the Church which it has held for centuries, which it has not forfeited by any fault of its own, and which it still requires for its wants, is an act of injustice unparalleled in the history of constitutional government, bringing into doubt and danger all rights of property; and we distinctly repudiate what is commonly known as the levelling-up system.'

The speech in which Sir Joseph Napier moved the resolution will be found on page 357 of this biography.

The resistance to the Disestablishment and Disendowment Act having failed, when the elected representatives of the Irish Churchmen met in General Convention Sir Joseph

Napier was found of course in the front, and took an active part in the building up where there had been a pulling down. The work to be done was great and important, for the demolition had been as extensive as it could well be made. Of all the property owned by the Irish Church nothing was left except 500,000*l.* in lieu of private endowments, the right to claim within six months churches certified to be required for public worship, and the right to buy glebe-houses and a certain portion of land. The Bishops and clergy and other officials were given annuities conditional on duty as far as the clergy and church officers were concerned, but the Church lost everything save as mentioned. And further, on January 1, 1871, the ecclesiastical law of Ireland, except in as far as related to matrimonial causes and matters, was made to cease as law, and all jurisdiction, whether contentious or otherwise, of all the ecclesiastical peculiar, exempt, and other courts and persons in Ireland, or in any way connected with or arising out of the ecclesiastical law of Ireland, was made to cease. If the Irish Church was not to perish out of the land a struggle had to be made in the lifetime of the annuitant clergy to prepare for the future. To the fund started for the nucleus of General Church Sustentation, Sir Joseph Napier contributed 500*l.* (Lady Napier gave the same sum), and for many years, even to the day of his death, gave 100*l.* a year to help poor parishes.

If there was to be any law or order in the disestablished Church, laws and canons had to be enacted and courts established. To these objects Sir Joseph Napier gave his best attention both in the Convention and Synod, and as a member of the Judicature Committee, of which for years he was a member. Even the Prayer Book, the common heritage of the English and Irish Churches, had to be altered somewhat in consequence of disestablishment, and the neces-

sity for the small changes thus required, joined with a dread of the attraction to more ritualism in the public service of the Church than Irish Churchmen face to face with Roman Catholic practice desired, made the Convention decide on a revision of the Prayer Book, and in this work also Sir Joseph Napier took an earnest and laborious part. The first resolution on this subject was adopted on the motion of the Duke of Abercorn on October 27, 1870, by the General Convention, 'that a Committee shall be appointed to consider whether, without making any such alterations in the liturgy or formularies of our Church as would involve or imply a change in her doctrines, any measures can be suggested calculated to check the introduction and spread of novel doctrines and practices opposed to the principles of our Reformed Church, and to report to the General Synod in 1871.' Sir Joseph Napier formed one of the thirteen laymen chosen for this Committee. The General Synod, April 28, 1871, adopted the following resolution: 'that in the opinion of this Synod the time has arrived for entering upon a complete revision of the formularies of the Church of Ireland in a cautious and reverent spirit; and that the Bishops, together with certain representative members to be named by the Synod, be therefore requested to consider the whole subject of revision and report on it to the Synod of 1872.' Sir Joseph Napier formed one of this Committee, which during the years 1871, 1872, and 1873, held over seventy meetings. During the same years the General Synod held its annual meetings, at which Sir Joseph Napier attended.

During the years 1874–76 Sir Joseph Napier was also a member of the representative body of the Church of Ireland and one of the legal Committee. On May 12, 1876, on the motion of Lord Plunket, seconded by the Bishop of Cashel, the General Synod unanimously resolved 'that the cordial

thanks of this Synod be hereby tendered to Sir Joseph Napier for his great kindness in placing his eminent abilities at the service of the President as Assessor.'

It is not too much to say that Sir Joseph Napier's decisions as Assessor were ever received with respect; the manner in which they were delivered, a combination of gentleness and firmness, made them most acceptable. To go over the labours of this eminent man in the lines above mentioned, Church Sustentation, Church Laws, and Revision of the Prayer Book, or even to state clearly the action taken in matters of controversy, would take up more space than I am asked to fill. It is perhaps enough to say that the Irish Church disestablished has survived the severance from the State, and has now her own system of laws and her own courts; that the Irish Church disendowed has been enabled to still do her duty in providing the ministrations of religion to the people, though she has had to diminish her incumbencies from 1,510 to 1,164, and has received through the Church Body since 1870 no less than 3,110,150*l.*, being gross amount of the annual contributions from that date; and that the Irish Church has a revised Prayer Book with additional services, and that in the work which all these operations necessitated on the part of her faithful sons, Sir Joseph Napier took a large part. And he was not forgetful of other claims. He was an annual subscriber to his parish charities. He gave some 2,000*l.* to build an addition to Mercer's Hospital in St. Peter's parish, 1,000*l.* to the Widows and Orphans' Board in connection with the General Synod, and he made munificent gifts to Trinity College memorials to the Bishop of Meath and Dean Daunt.

The testimony of the Rev. Canon Wynne, of St. Matthias, Dublin, to the work of Sir Joseph in the

Synod, and to the high estimation in which his labours were held, is equally flattering.

He devoted (writes Mr. Wynne) his great powers with earnest enthusiasm to the important and difficult work of the reorganisation of the Church after its disestablishment. He was most assiduous in his labours in the Synod, and though in delicate health never spared himself when he could be of use to the Church of Ireland in her hour of difficulty. His unrivalled legal knowledge was made much use of, and he was constantly employed by the Bishops as legal Assessor to the Synod. On this account it is that there are so few records of his speeches. He generally sat on the Bishops' bench, acting in a kind of judicial capacity to explain the legal bearings of the many complicated questions that arose in those troubled and anxious times. The speeches that he delivered, though of the highest value at the time, are more interesting to those acquainted with the intricacies of law than to the unlearned public.

We can all recall to mind his picture as he sat on that bench so patiently from day to day. His face a little pale from sorrow and delicacy, his large earnest eyes fixed on each speaker as he expressed his views, his hand placed to his ear so that he might catch each word, so gentle and patient and wise in look and gesture as well as in reality, the noble figure lives before us still in memory.

He threw himself very heartily into the movement that had for its end a careful and thorough revision of the formularies of our Church, without interference with her old and unchangeable doctrine. But he was very watchful against any change even in expression which might make any chasm between the still closely linked Churches of Ireland and England. In the discussion upon the Ordinal he felt it

necessary to resist strenuously a proposed change of wording with the principle of which he agreed, lest it might throw difficulties in the way of Irish clergymen officiating in England or English clergymen in Ireland. To his prudence and legal skill the Irish clergy on this and several other important points feel themselves largely indebted.

Though he has been promoted to a higher service, those who worked with him in this Church of Ireland are not likely to forget while they live the sympathy, the generosity, the earnest co-operation of one of their most highly gifted fellow-labourers.

This sound aid and controlling influence were now to be withdrawn, and Sir Joseph felt himself compelled, owing to the increased delicacy of his health, to inform the Synod that henceforth it was impossible for him to attend its deliberations or to take further part in supervising its decisions. The reason which had induced him to arrive at this resolve was too self-evident for any attempt being made to change his mind upon the subject. The following letter shows how his work was appreciated:

The General Synod of the Church of Ireland,
Christ Church Place, Dublin, April 23, 1879.

My dear Sir Joseph,—It is with much pain I enclose to you the Resolution come to this morning by the Representative Body of our Church. For many years we have been workers together in a great and good cause, and I have always looked up to you as one of our most steadfast friends and most wise and valuable counsellors. I cannot without

regret perform the last act of your connection with our Representative Body by enclosing to you the expression of our sorrow at your retirement, of our sense of the value of your services, and of the high opinion all entertain of you, as well as the regard we feel towards you. You have my own best wishes for your happiness in time and in eternity.

Yours most truly,

M. G. ARMAGH.

This was the Resolution:

Church of Ireland Representative Body.

Moved by the Bishop of Cork, seconded by the Earl of Belmore:

That the Representative Body has learned with deep regret that the state of Sir Joseph Napier's health renders it impossible for him to continue to take part in its deliberations, and takes this opportunity of giving expression to the feelings of regard and esteem which are entertained towards him by the members of this Body, and of gratitude for the services which he has rendered to the Church in Ireland.

April 23, 1879.

As he had severed his connection with the Irish Synod, so was he now to separate himself from his beloved University.

He used often to say to me (writes Mrs. Gardiner), 'Of all my honours I appreciate most being made Vice-Chancellor of Trinity College.' When all else was a dream to him, his College was never forgotten. On its scenes he ever loved to dwell. His connection with Trinity College from first to last

was of the tenderest nature. 'There,' he said, 'I learned to love the studies which are still my solace and delight. With the protection of her interests, the sacred interests of learning and religion, are associated the happy memories of my public life and the friendship of the wise and good—by me never to be forgotten.'

This connection was now to be terminated. He resigned his office as Vice-Chancellor.

Trinity College, Dublin, Jan. 13, 1880.

The Provost laid before the Board the appointment, by the Chancellor of the University, of the Right Honourable John Thomas Ball, Lord Chancellor of Ireland, to the office of Vice-Chancellor.

The following Resolution was passed on the motion of the Provost, viz.:

Resolved, that the Provost and Senior Fellows cannot allow this occasion to pass without recording their high sense of the many and valuable services which the late Vice-Chancellor, Sir Joseph Napier, has rendered to the University; and they desire to add the expression of their deep regret for the painful illness which has led to their discontinuance.

Of this enforced severance from work of all kinds none cost him a greater effort than to put an end to his connection with the Church of Ireland Young Men's Association. In this Society he had always taken the greatest interest, he had frequently delivered lectures before its members—notably the one on Burke, and the other on William Bedell, Bishop of Kilmore—and on the many occasions when youth has

to seek the counsel and experience of old age, Sir Joseph was ever ready to act as friend and adviser to any of the body in need of such assistance. No one came to him and was sent empty away. With young men—young men struggling with religious difficulties, with pecuniary difficulties, and with the numerous embarrassments which block the path of life at the outset—as we have said before, he always had the readiest sympathy, and when more substantial aid was not required, his voice of kindly encouragement, his sound advice which caused obstacles effectually to be surmounted, the armour of a lofty yet convincing morality which he so unsparingly supplied for the resistance of the temptations incidental to youth, were always at hand and freely to be drawn upon. How many young men in London and Dublin have owed, humanly speaking, their eternal and temporal salvation to the interest taken in their welfare by Sir Joseph Napier we shall never know—at least this side of eternity. His influence upon them was deep and permanent, simply because he never preached at them, never looked down upon them from the pedestal of his own superiority, never, in short, was aught but kindly, tolerant, and bracingly sympathetic. 'His sympathy with young men,' writes Mrs. Gardiner, 'was very great. No young man feared to bring his difficulties before him. He would

always listen patiently; his own faith firm and strong, he could yet feel for others who had doubts and fears.' He now sent in his resignation, and accompanied it with a gift of books.

Church of Ireland Young Men's Christian Association,
8 Dawson Street, Dublin, Nov. 18, 1880.

My dear Sir,—At a recent meeting of the Committee of the above Association the following resolution was unanimously passed:

Resolved, that the cordial thanks of this Association be presented to Sir Joseph and Lady Napier for the donation of books which they have received through Dean Dickinson. The Committee remember with grateful regret the earnest interest which Sir Joseph Napier always manifested in this Association, its objects and its members, as long as his health allowed him, and the important services which he rendered to it in the earlier days of its existence. They assure Sir Joseph and Lady Napier of the esteem and gratitude with which these services will be remembered by all who are acquainted with the history and work of the Church of Ireland Young Men's Christian Association.

I remain, dear Sir, faithfully yours,
W. H. HARDEN, Secretary.

Sir Joseph Napier, Bart.

One more resignation—the most important of all—had to be tendered before that rest which was considered so indispensable for the invalid, was to be obtained. The judicial duties of the Privy Council had sat somewhat lightly upon Sir Joseph during the

first months of his illness, still even when his attendance was required he was unable to put in an appearance, and therefore with the conscientiousness which always governed his actions, he was meditating the resignation of his appointment when the following communication hastened and confirmed his decision as to the necessity of the step:

Spencer House, St. James's Place, Jan. 11, 1881.

My dear Sir Joseph,—The friendly feeling which you always showed me when I was Viceroy in Ireland encourages me to write to you on a matter of importance connected with her Majesty's Privy Council, of which I have now the honour to be Lord President.

The recent death of Sir James Colvile has reduced to three the number of the paid members of the Judicial Committee. Two of these three distinguished judges are in uncertain health, and in order to secure a quorum, it is considered indispensable to secure the power of summoning other members of the Committee, and further to reinforce the Indian strength of the Committee.

Under these circumstances, and knowing with regret that your health has not recently permitted you to attend the Judicial Committees, I venture to submit to you that it would be of great public convenience if you would resign your appointment on the Judicial Committee of the Privy Council. Sir Montague Bernard has resigned, as he has not been able to attend. If you were also willing to do so the necessary arrangements would at once be made for satisfactorily conducting the business of this important court.

I beg to assure you that it is with great regret that I

learn that you are unable to attend on account of your health, and that it is only on account of the necessities of the public interests that I venture to make this proposal to you.

Believe me, very truly yours,

SPENCER.

The Rt. Hon. Sir Joseph Napier, Bart.

This proposal was unhesitatingly acceded to, and Sir Joseph henceforth ceased to become a member of the Judicial Committee.

The end was now drawing nigh. After the death of their son, both Sir Joseph and Lady Napier felt that they could no longer remain in their house in Merrion Square. Accordingly they crossed St. George's Channel and took up their abode in South Kensington, where they resided for the next six years. As in Dublin so now in London, the parents, ever mindful of their loss, erected a Napier Ward in the Brompton Hospital in memory of their eldest son. From South Kensington Sir Joseph removed to St. Leonard's in order to be near his daughter Mrs. Gardiner, who had returned from India, and there, after a stay of a few months, he passed away, so quietly and painlessly that those who were watching him scarcely knew when the last sigh was drawn, Saturday, December 9, 1882.

The closing scenes of his life are thus described by Mrs. Gardiner :

In the midst of earthly prosperity and happiness and congenial labour, I may say of him as he said of Burke, he was bowed to the earth by a stroke of affliction which left his home desolate and blighted his earthly hopes. The son whom he so tenderly loved (a fellow-worker in the same profession), and to whom he looked to be the bearer of the title he had won, and the inheritor of what he had with toil and effort secured, was cut off after a very brief illness, and after that my father was never the same. Threescore years and ten had passed, and after that truly it was but labour and sorrow. As on a lofty summit on which the purest beams have shone, the sun sets and clouds settle down, so it was with him; but the clouds were not dark or sullen ones—only veiling thinly the former grandeur. 'At eventime there was light.' To those who gazed on that grand face as it slept in death came not the vision of the helplessness of age, but the vigour of manhood, the lofty brow, the gentle smile, the returning likeness to what he had been in his days of happiness. Though the sword had been too sharp for the scabbard, though affliction and trials had crushed the heart, though the once vigorous intellect had been darkened, thank God there was no blight, no darkness that could not be dispelled. The great mind and genius bowed beneath the weight of circumstances, but did not break, yielding itself in patience to the will of its Creator. My father had faithfully worked whilst the day was his; the shadows fell; he waited, and they also serve who only stand and wait.

As he lived so he died, absorbed in one great conclusion, which influenced his every action, of the vanity of human wishes, save as they drew their inspiration from on high.

In his own words (writes his daughter) I sum up what he felt to be the highest and best result of a life which had been honoured alike by a grateful country and University. 'I have served,' he said—and it will be remembered that he said the same at the meeting of the Church Missionary Society when he advocated the admission of the Bible into the schools of India—'I have served a very gracious Master. He has brought me to great honour and He has comforted me on every side. I have reached the highest point to which my ambition could have aspired—far beyond what I ever contemplated. I have had the calm of leisure and reflection. I have had my day of science, I still relish the refreshment of literature, but let me bear the humble testimony that after all there is only one thing worth living for, and that is to love and serve the Lord Jesus.'

The remains were carried over to Ireland, and the funeral took place on the following Friday. The first portion of the service was held at Trinity College Chapel, by the Rev. Dr. Salmon, Regius Professor of Divinity, where the coffin lay the night, the College bell tolling the while, before being conveyed to the family vault in Mount Jerome Cemetery. The ceremony was attended, in addition to the members of the family, by the Judges, the officials of Trinity College, the leading members of the clergy, a deputation from the College Historical Society, and the representatives from the different religious societies. Upon the coffin was this simple inscription :

RIGHT HON. SIR JOSEPH NAPIER, BART.

BORN
26 DECEMBER, 1804,
DIED
9 DECEMBER, 1882.

Against the mortuary chapel of the cemetery is fixed this tablet:

SACRED TO THE MEMORY
OF
THE RIGHT HON. SIR JOSEPH NAPIER, BART.

EX-LORD CHANCELLOR OF IRELAND,
BORN 26 DECEMBER, 1804. DIED 9 DECEMBER, 1882.

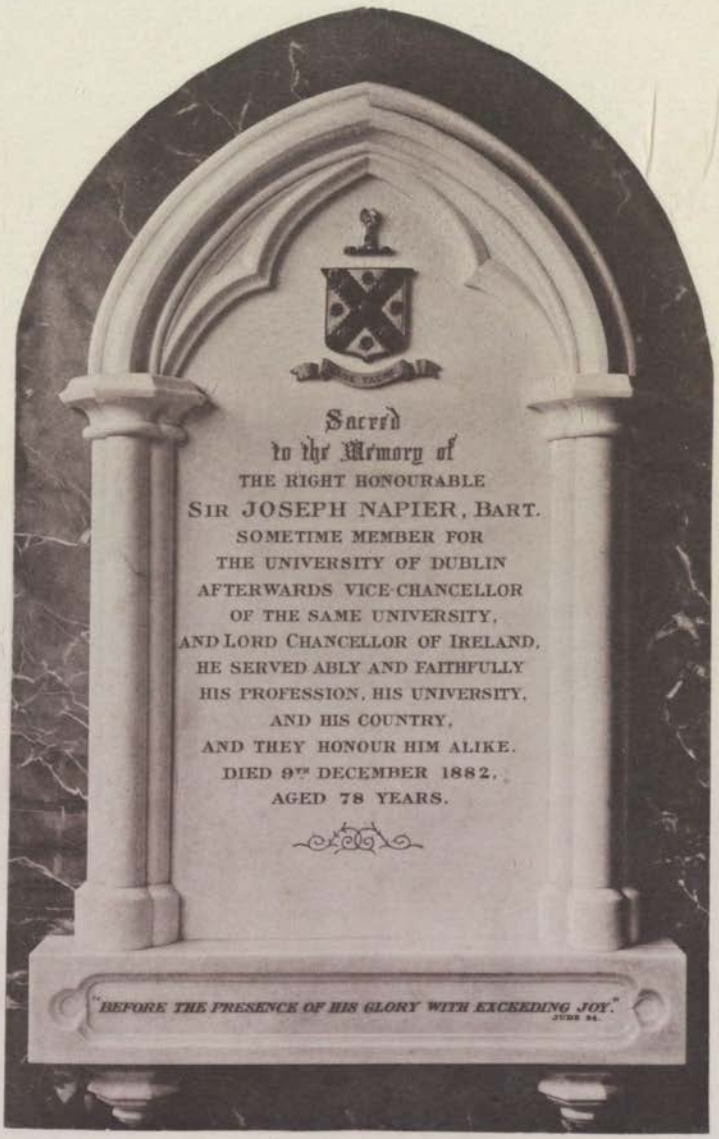
AN EARNEST AND HUMBLE CHRISTIAN,
HE CONSECRATED
TO THE MASTER'S SERVICE THE RARE ABILITIES HE POSSESSED,
AND AFTER A LIFE SPENT IN ADVANCING THE INTERESTS OF
JUSTICE, LEARNING, AND RELIGION,
HE WAS SUMMONED TO THE NEARER AND HOLIER
SERVICE OF THE CHURCH ABOVE,
HAVING WON THE VICTORY THROUGH HIS LORD AND SAVIOUR
JESUS CHRIST.

At evening time it shall be light.—*Zech.* xiv. 7.

SURSUM CORDA.

Another tablet hangs against the wall of St. Patrick's Cathedral. The inscription was written by the Rev. Dr. Jellett, the present Provost of Trinity College, whilst the text under it was suggested by the Rev. H. Webb-Peploe. The baronetcy which Sir Joseph Napier so deservedly won is not extinct. Two sons and three daughters were the issue of his marriage. The death of the elder son, who was not married, we have already related. The second son,

late a captain in the 23rd Royal Welsh Fusiliers, died two years after his father, leaving issue the present baronet. Of the three daughters, the eldest married the Rev. Paulus Singer, a son of the Bishop of Meath; the second Colonel Macgregor, a son of General Sir Duncan Macgregor; whilst the youngest, who at one time meditated writing this biography, married in 1868 Mr. Gardiner, of the Bengal Civil Service, son of the Rev. Mr. Gardiner of St. Leonard's.


Sacred
to the Memory of
THE RIGHT HONOURABLE
SIR JOSEPH NAPIER, BART.
SOMETIME MEMBER FOR
THE UNIVERSITY OF DUBLIN
AFTERWARDS VICE-CHANCELLOR
OF THE SAME UNIVERSITY,
AND LORD CHANCELLOR OF IRELAND,
HE SERVED ABLY AND FAITHFULLY
HIS PROFESSION, HIS UNIVERSITY,
AND HIS COUNTRY,
AND THEY HONOUR HIM ALIKE.
DIED 9TH DECEMBER 1882,
AGED 78 YEARS.
"BEFORE THE PRESENCE OF HIS GLORY WITH EXCEEDING JOY."
JUDE 24.

APPENDIX.

SPEECH OF NAPIER ON THE SIX-MILE BRIDGE AFFRAY, MARCH 17, 1853.

(See 'Hansard' Vol 125, pp. 316-342.)

THE gist of this speech (which is too long for insertion in the body of the book) is that soldiers should be protected in the discharge of their duty; and that so long as they do not overpass it, they should be sustained by the powers of the law. Napier shows that the rule of the law is in fact to that effect. He quotes the opinion expressed by Lord Chancellor Thurlow in the case of the attack upon the house of Lord Mansfield, that 'it was the duty of every man to assist in the conservation of peace, and that the military when present individually as private persons, or collectively under military command, if they were insulted or assaulted by being pelted with brickbats, stones, &c., had *a right to proceed to extremity and use such weapons as they were furnished with for the destruction of the rioters.*' A similar view of the question was taken by Sir James Mansfield. 'Soldiers were bound by the duties and clothed with the rights of citizens. Their right and their duty was to interpose to prevent any crime or mischief being committed, and it was not necessary that their commanding officers should give command, nor that a justice of the peace should be present. *They might use their arms and*

lawfully put to death, if necessary, to prevent felony.' Lord Ellenborough, when Attorney-General, delivered the same opinion. In the case of the Bristol riots Chief Justice Tindal when charging the jury said 'he held that every private person was bound to use his best efforts to suppress a riot, to assist in dispersing the rioters, or to prevent them executing their purpose; and he was bound to do all this to the best of his ability: if the riot was general and dangerous he might arm himself against the evil-doers to keep the peace: that whatever was honestly done by him in the execution of these objects would be supported and justified by the common law; that *there was no distinction as to a soldier*; and that he was generally bound to attend the call of a civil magistrate.'

Napier's view of the law was sustained by his old master Sir John Patteson. 'I think,' writes Sir John to him, 'your view of the law as to the duty of the soldiers is quite correct. They are in the nature of armed special constables to escort the voters; and if a forcible attempt is made to prevent their performing that duty, and still more to wrest their arms from them, they must repel force by force and must use their arms by firing, if they cannot otherwise protect those whom they escort and themselves: and, as I apprehend, the necessity for their so doing is not to be inquired into with minute criticism, but the onus is rather on those who undertake to say that the firing was wanton, a *primâ facie* case of necessity having been first fairly shown.'

'The greatest interest,' writes Napier to his wife, 'exists about Six-Mile Bridge. The Duke of Cambridge, Lord Hardinge, and all the military chiefs are to be in attendance. Lord Cardigan comes up specially for it.'

Upon this speech Field Marshal Lord Napier of Magdala thus comments in a letter to Lady Napier:—

'January 22, 1887.

'Dear Lady Napier,—I am very much obliged to you for letting me see the opinions of your honoured husband, Sir Joseph Napier, on the Six-Mile Bridge trial.

'I hope that the whole of his speech on the subject which he delivered in the House of Commons may yet appear in his Biography.

'It was a noble effort to defend soldiers, whose positions when engaged in the suppression of riots or as sentinels in charge of posts are subject to much danger, not from the military law, under which they act, but from the civil law, which tries them when their duty has been done.

'The instructions of the military law are precise enough as far as they go—that is, for ordinary circumstances—but leave soldiers without a guide for emergencies. The civil law appears to depend on the opinions of learned judges who do not always agree.

'Sir Joseph shows that under mistaken views the Government of the day punished soldiers by sending them for trial when the charge against them had been rejected by a grand jury, and liberated the real criminals without trial, through fear or partiality.

'Whenever the subject may be reconsidered by her Majesty's Government Sir Joseph's clear and masterly views will be of great value and assistance.

'Believe me, dear Lady Napier,

'Yours most respectfully,

'NAPIER OF MAGDALA.'

A few private Letters.

'St. Patrick's Deanery, August 24, 1883.

'Dear Lady Napier,—I am happy to say the tablet is come and the mason is now putting it up in a good position. It is very well designed, chaste and simple, and the inscription is an excellent specimen of abundant significance compacted in the fewest words. I am glad to have *it* in the National Cathedral. I am also glad to hear about the Biography. A life of useful public service like Sir Joseph's should not be allowed to pass away without record.

'I remain, dear Lady Napier,

'Most sincerely yours,

'J. WEST.'

'11 Carlton House Terrace, March 30, 1859.

'My dear Lord Chancellor,—Pray let me thank you for your obliging and acceptable letter. My ideas as to the main points, I think, have run much in the same channel with your own, and you may recognise the effort to express them, though it would have been well for us, if you had been in your old seat, to do it for yourself. But I am not so uncharitable as to wish you back again. I am beyond measure grieved at the rejection by the Government of Walpole and Henley's basis.[1] At the same time it appears to me, as to you, that the resolution caps this error with a second. The Government whips speak of the division as not desperate. This I can hardly understand, though I could wish to believe it. It is said there are six hundred members in London.

'Believe me, with every good wish and much respect,

'Most faithfully yours,

'W. E. GLADSTONE.

'The Right Hon. the Lord Chancellor of Ireland.'

[1] Messrs. Walpole and Henley objected to the extension of the county franchise in the Conservative Reform Bill.

'Pall Mall, Saturday Night.

'My dear Friend,—I cannot delay thanking you for your communication, which makes *me almost* as happy as yourself, because I see our gracious Lord's hand and love and mercy to many so conspicuously in it, and I desire to praise Him above all that my dear friend is *Lord Chancellor of Ireland.* He who has put you there will not only keep you but bless you there, and I am sure this unexpected elevation will raise your heart more and more in cries to Him to "hold you up, and you shall be *safe.*" It is a precious truth that His people are "*kept* by the power of God," &c., that they might be to the glory of *His grace.* Now, my dear friend, the battle will rage *within* and you must not be surprised at the many struggles you will have with Satan, the great enemy, from *without,* but above all within; flattery and all kind of *toadying* from *without* and a "heart deceitful above all things" *within.* But your comfort must be though Jesus had said to you what He said to Peter, "Though Satan would sift you as wheat I have prayed for you," and there is your strength and safety, my dear friend. But why need I tell you these things? you know them as well as I do; but "for me to do so is not grievous and for you it is safe." Rest assured you have no friend who rejoices more than I do in your elevation, both on public and private grounds, and now I commend you to Him our Blessed Master, who is able to keep you, and by the constant indwelling of the Holy Ghost to strengthen you in every conflict and make you more than conqueror through Him who loves you and has died for you.

'Always your affectionate attached Friend,

'RODEN.'

'St. Giles's House, April 1884.

'Dear Lady Napier,—I regret to say I have not any letters of Sir Joseph Napier, nor can I furnish [material ?] in aid of his Biography. His friends need very little. He was well known and beloved as a man of singular goodness and ability; most truly did I respect him. I wish there were a few left of his principles and sagacity. Thanks for the copy of his speech on the Sabbath, which I will keep and make use of.

'Very truly yours,
'SHAFTESBURY.'

'30 St. James's Place, February 12, 1883.

'Dear Madam,—I trust you have not attributed the delay in answering your note to any but its true cause, absence from England. I have no objection to your making use of the letter you send a copy of. I can only say it would be a very great pleasure if I could find any of my late excellent friend's letters which could in any way assist you in compiling his memoirs.

'Yours very faithfully,
'STAFFORD NORTHCOTE.'

'Palace, Dublin, November 27, 1879.

'Dear Lady Napier,—I thank you much for letting me see the letter of our dear friend Dean Daunt. It is pleasant to find oneself honoured by one whose own memory one must always hold in such honour. Let me thank you also for giving me some news about Sir Joseph, who must ever be held in affectionate remembrance by all who had the privilege of his friendship. Will you please to give him such an affectionate remembrance from one who would fain count himself

among the list of his friends? and pray believe me, with a thankful sense of your thoughtful kindness in writing me, dear Lady Napier,

'Very faithfully yours,

'R. C. DUBLIN.'

Lady Napier.

'Highcliffe Hotel, December 26, 1883.

'Dear Lady Napier,—I have read the accompanying letters and notices most carefully and with much interest.

'Some of the letters recalled the memory of days when I had the privilege in a humble way of being a fellow-worker with your dear husband.

'I am glad to find from the obituary notices that Sir Joseph's character and abilities were so generally appreciated.

'A man with so clear a head, so warm a heart, and so single-eyed a zeal for his Master's cause ought not to be easily forgotten. He will not, at least, be soon forgotten by me, and I can say the same for many others who shared the feelings of sincere respect and regard which I always entertained towards him.

'Yours very truly,

'PLUNKET, MEATH.'

'Provost's House, Trinity College, Dublin, December 10.

'Dear Lady Napier,—Your telegram caused sincere grief to all who, like myself, remember the long and honourable connection which subsisted between this place and the friend who has just passed away. Memories of private friendship will be present to many of them as they are to me. He has closed a long and honourable life, and Trinity College will not soon forget that all the public part of that life was spent in her service.

'I will make arrangements (if you agree) for having the first part of the service in the Chapel, and many of us, I am sure, will wish to accompany the funeral to Mount Jerome, where no doubt you will have arrangements made. Let me know the day as soon as possible. It is now so near Christmas that many will have left town.

'I remain, dear Lady Napier,

'Very truly yours,

'JOHN H. JELLETT.

'P.S. I received your letter.'

THE OPINIONS OF SIR JOSEPH NAPIER AS ASSESSOR OR AS A MEMBER OF THE JUDICIAL COMMITTEE.

(Kindly furnished by Canon Jellett.)

Revision and Prayer Book Committee.

It was open to any member of the Revision of the Prayer Book Committee to express dissent from any change recommended by a majority, as was done by several members, the Primate, the Archbishop of Dublin, the Bishop of Derry, Rev. Henry Jellet, D.D., &c. Sir Joseph's was as follows: 'As the majority of the Committee has decided that dissent in the usual form should not be allowed to be recorded, I decline for the present to express any dissent in the form allowed. I reserve to myself the liberty of expressing it hereafter as I have opportunity.'

Opinions given by Sir J. Napier, Bart., Assessor, on the Mode of Procedure.

The rule of procedure which I think we ought to follow is this:

1. When a motion is made, and a question founded thereon is put from the Chair, an amendment may be moved that some of the words of the question be omitted in order to insert the words of the amendment. After debate the question is put that the words proposed to be left out stand part of the question—that is to say, the original question. If this is

resolved in the affirmative, the amendment is thereby set aside; but if it is resolved in the negative, the question is then put that the words of the amendment be inserted. The amendment then becomes for a time a substantive motion, and when it is proposed, it is subject to amendment as if it were an original question. In effect, the Synod proceeds to modify and mould it by amendment, so as to have in it the words proper to be inserted in the room of those that the Synod has resolved should not stand part of the original question. This preliminary process is for the purpose of getting the original question into such a shape as to enable the Synod, by adopting or rejecting it after it has been amended, to express in the most convenient way their opinion on the merits.

2. When the Synod has resolved that certain words in the original question should stand part of the question, or that certain words should be inserted therein, no further amendment can be made in these words, or in any of the words that precede them. Any amendment of the form of the question must be proposed at such a time, and in such a form, as not to interfere with the words which have been already retained or inserted, or with the words which precede them in the original question.

Opinion given by Sir J. Napier, Bart., Assessor, May 12, 1876, *as to the Synod's Power of dividing (on the Third Reading) a Revision Bill, in which several Resolutions are included in one Bill, with appropriate Enactments.*

The practice of the House of Commons proceeded on this principle: that at each stage of a Bill before its passing there should be an opportunity of reconsidering it, and an entire Bill may be regarded as *one question* which is not decided

until the Bill has passed. The decisions made at each stage are independent and often inconsistent; but when the Bill passed these inconsistencies no longer appear (see 'May's Practice,' 287, 6th edition). By No. 45 of our Standing Orders, our President is required to regulate our proceedings *by analogy* to the Standing Orders and practice of the House of Commons, when our own orders are silent. By Standing Order, July 21, 1856, of the House of Commons, no amendments, not being merely verbal, shall be made to any Bill on the third reading. The difficulty that arises is one that is peculiar to our procedure. I anticipated this some years ago; but I then thought that it might be got over by the management of our procedure in the way which Mr. Jellett seeks now to adopt, but which he ought in strictness to have resorted to at an earlier stage. The Bill here (as it stands) is in effect a compound of several Bills, each having its appropriate Resolution for its foundation; but all are fused into one Bill, and, therefore, technically raising one entire question. For the purposes of voting on the Bill, it is most reasonable to separate one or more of these Bills from the rest, so as to avoid subjecting the whole, *in globo*, to the objections made only to one in particular. The objector to any one, when it is left as an integral part of the whole, and its fate must determine the fate of the whole (although the remainder is subject to no such objection, or any other, beyond that which is made to one part), is placed in a difficult position, from which he ought, if possible, to be set free. He is compelled to vote against the whole where he only objects to a part. This is unjust and unreasonable.

In House of Commons Bills, or in Synodical Bills regulated by our general procedure, this could not arise; but in these Synodical Bills that are governed by our special procedure, and generally known as Revision Bills, it is not

practicable to regulate the procedure by analogy to the procedure and practice of the House of Commons, and therefore I confess I have entertained much doubt whether it is practically applicable to these peculiar Bills.

I suggested to Mr. Jellett to follow the course that I had no doubt was strictly correct—namely, to have the order for the third reading discharged, the Bill recommitted, and the separation made; but as he had no amendment to propose other than the separation of clause 2, and as the economising of time is at present important, I am disposed to say the Synod may, by giving him leave to deal with clause 2 as a separate Bill, act according to the spirit, and not, clearly at least, against the letter of its laws. I think I am at liberty to advise the President to put the question to the Synod to decide whether they will give to Mr. Jellett the leave he requests, although he has not resorted to the more technical and roundabout proceeding which I suggested to him as free from any kind of objection, and has not made the application to make this separation so early as he might or ought to have done.

We ought to have an appropriate Standing Order on the subject, to regulate the procedure in future.

REPORT OF JUDICIAL COMMITTEE ON REVISION STATUTES.

Your Committee was appointed under the following resolution: 'Whereas several Statutes were passed by the General Synod in the year 1875, whereby amendments and alterations in the Book of Common Prayer were directed to be made "from and after such day and upon such terms and conditions as shall hereafter be fixed by a Statute or Statutes of the General Synod;" and whereas a question has arisen as to whether the Statute or Statutes so to be passed require to

their validity to be passed by majorities of not less than two-thirds of each order present and voting therein, according to the Statute of the year 1871, chapter ii.:

'Resolved,—That a Committee, consisting of all such members of the Synod as, under the Statutes of the Convention, 1870, chapter iv. section 19, are qualified to be elected lay judges of the Court of Appeal, be appointed to examine the said question, and to report their decision for the guidance of the Synod—five to form a quorum.'

We were furnished with copies of the opinion given in London by the counsel who were consulted by their Graces the Archbishops of Armagh and Dublin, and we heard the arguments of counsel who attended before us; and, having considered this opinion and these arguments, we came to the conclusion already communicated to the Synod, that the Statutes to be passed did not require to their validity that they should be passed by majorities of not less than two-thirds of each order present and voting thereon.

There were present: Rt. Hon. Sir Joseph Napier, Chairman; Rt. Hon. M. Longfield, Rt. Hon. Judge Warren, Rt. Hon. W. Brooke, Geo. Battersby, LL.D., Hon. Judge Harrison, Jasper R. Joly, LL.D.

Six of the Committee entirely concurred in the result that has already been communicated to the Synod.

As Dr. Battersby has dissented for reasons which were not sufficient to satisfy any of the others, and the reasons that prevailed with us respectively were, to some extent, peculiar to each, it appeared to be the most satisfactory course to leave it to each of the six to communicate to the Synod, in the form he should prefer, his reasons for concurrence, and that the dissentient member should state the reasons for his dissent.

I have drawn up, therefore, the reasons upon which I formed my opinion, and the other members have each handed

to me, in writing, the reasons upon which they have respectively formed their opinion. It is not my province to criticise any of these. My duty to the Synod is to give a direct answer to their question, with such explanatory reasons as seem to me sufficient for the purpose of guidance to the Synod.

JOSEPH NAPIER, *Chairman.*

Rt. Hon. Sir Joseph Napier, Bart.

I regard the question put as purely and strictly a question of judicial construction of the Statute of the General Synod of the year 1871, cap. ii. The material words of this Statute are these :—

'No modification or alteration shall at any time hereafter be made in the articles, doctrines, rites, rubrics, or (save in so far as may have been rendered necessary by the passing of the Irish Church Act, 1869) in the formularies of the Church, unless by a Bill duly passed as hereinbefore provided. No Bill for such purpose shall be introduced except on a Resolution, passed in full Synod, stating the nature of the proposed modification or alteration; and no such Bill or Resolution shall be deemed to have passed the House of Representatives except by majorities of not less than two-thirds of each order of the said House present and voting on such Bill or Resolution.'

After the Resolution has been passed, copies of it have to be transmitted to the several Diocesan Synods within one month after the last day of the Session of the General Synod in which it has been passed; and the Bill for having it carried into effect cannot be introduced until the following Session of the Synod.

The Synod requested us to give them for their guidance our opinion of the legal construction of this Statute. We undertook to furnish the Synod with the reasons for our

opinions. As we have not been unanimous, we have thought it to be the most satisfactory course that each should convey to the Synod, in such form as he might prefer, the grounds on which he arrived at the conclusion which he adopted. I looked at the question altogether as one of law, to be dealt with on judicial grounds, and none other.

The section of the Statute is an exceptional provision to the general law of the Synod, and therefore it is not open to be extended by implication or inference. We are not to be reasoned into an exception.

The first step expressly prescribed is that the proposed alteration should be made by a Bill duly passed as hereinbefore provided—cap. i., cl. 20, of the Convention Statutes.

The words of the Statute must be taken in their ordinary and grammatical sense; and, as it is an exceptional law, it must be strictly construed, so as not to extend any of its exceptions beyond the clear and distinct import of the words, taken in their connection and with their context. The general law of the Synod as to Bills in order that they should pass into the form of Statutes and 'thenceforth become part of the law of the Church of Ireland, and binding on all the members thereof,' is precisely stated in the Convention Act, cap. i., cl. 20. The special law that regulates the procedure on the class of Bills that are described in the Synod's Statute of 1871 is set forth in the 27th section of the Convention Statutes, cap. i., and was repealed and re-enacted with amendments in the Synod's Statute of 1871, which was made under the power conferred by the 26th and 29th sections of the Convention Statute.

What are the requirements and conditions of this special and exceptional law? This is to be answered, not by discursive or argumentative discussion, but by sound construction of the Statute upon which our opinion has been requested for

the guidance of the Synod. The Bills to which it applies are such, and such only, as its words plainly and distinctly specify, viz. Bills founded on Resolutions, in which the nature of the proposed modification or alteration is stated in the first instance, and these have afterwards been passed by special majorities, and sent down to the Diocesan Synods, after they have been passed by the General Synod. A Bill to carry any of these into legal effect cannot be introduced until the next ensuing Session of the General Synod. It then goes through all the stages of procedure of an ordinary Bill. The Bill may be amended, but not so as to alter the nature or enlarge the statement in the Resolution on which it is founded; and the Bill must be kept within this Resolution; there is required for its *passing* (but at *no other stage*) the assent of the two-thirds of each order present and voting thereon. All this is *expressly* set forth in the special law of the Synod. It will be seen that the class of Bills 'proposed to be passed' (referred to in the Synod's question) are generically different from the class specified in the Statute referred to in that question. There are no words in this Statute which, when taken with their context and in their connection therein, could be made applicable by lawful construction to Bills that neither require nor admit for their foundation a Resolution stating a proposed alteration. The alteration has been determined and fixed by each Revision Statute, and cannot be again subjected to a two-thirds vote after the Revision Bill has been passed by such a vote. Everything required by this special law has been in substance complied with in each of these Revision Statutes of 1875. The alterations and amendments in the Prayer Book to be printed and published could not depart from those that have been already determined by the Revision Statutes, which on passing 'are part of the law of the Church of Ireland, and binding on all the members thereof.' No

further alteration could be made in the law, except by a like procedure of Bill and Resolution.

It may be observed that the clause which expressly requires the two-thirds majorities says, '*no such Bill or Resolution* shall be deemed to have passed the House of Representatives except by majorities of not less than two-thirds of each order of the said House present and voting thereon.' No other Bill is referred to than Bills which by the antecedent clause of the same Statute are required to be founded on special resolution, and therefore both Resolution and Bill are required to be passed by special majorities, and the Resolution only must go to the Diocesan Synods. The Bill may enact less than the Resolution allows, but must be pursuant to the Resolution, which it may reduce, but cannot enlarge.

There is no special form required for the Bill, but it must accord in substance with the terms of the special law. Each of these Revision Statutes has in substance conformed to all that is required by the Statute of 1871. They have settled and determined, pursuant to the Resolution in each case, what the alteration to be made is, and no special provision is further made, for it would not be appropriate to any stage after the passing by which the alteration has been fixed and determined. There could be no further voting required as to alterations that could not be altered except by Resolution and Bill, as in the cases now pending before the Synod. The Revision Statutes have exhausted the Resolutions on which they were founded, and the further questions as to which the Resolutions have not interfered and could not in any wise control, the Synod were at liberty to deal with these according to their discretion, not controlled by the Statute upon which the Synod have requested us to give our opinion for their guidance. I entirely concur with my colleagues, Dr. Longfield,

Mr. Brooke, and Judge Warren, in their elaborate and authoritative opinions, which have exhausted the other parts of the case, and are of very great authority with me on such a subject. I also agree with Judge Harrison and Dr. Joly in their well-considered opinions.

I think that by giving an answer precisely and directly to the exact question put to us by the Synod I fulfil all that is incumbent on me to communicate for the guidance of the Synod. If I am right in holding that the Bills proposed to be passed are not within the Statute of 1871, this is decisive. I have acted on the rule laid down by Lord Ellenborough in these words (in 16 *East's Reports*, p. 319):

'I think the sound rule of construing any Statute, as, indeed, it is of construing any instrument, whether it be Statute, Will, or Deed, is to look into the body of the thing to be construed, and to collect, as far as may be done, what is the intrinsic meaning of the thing; and if that be clearly discernible by reference to its own context, I shall not be inclined to raise a doubt upon a construction drawn *aliunde* if I can avoid it.'

This view of the case, if correct, is conclusive, and can only be met by proving that the class of Bills proposed to be passed is expressly included in the clear and distinct terms of the special Statute. If there be such terms, I have not been able to find them, nor have they been brought under my notice by anything that I have heard, read, or been referred to, except when separated from the context, and not left to the plain sense and meaning which the words of the Statute plainly import, in their connection and with their context, according to their lawful construction. Answers to questions put in other forms are not appropriate to the question put by the Synod. They may mislead, but cannot give the

Synod any safe guidance as to the construction of the Synod's Statute, on which they have specifically asked our opinion.

I have assumed it to be undoubted law that when the time shall have been fixed by the Synod it will be the same in legal effect as if it had been appointed in and by the Act by which the power was reserved to the Synod.

PRINTED BY
SPOTTISWOODE AND CO., NEW-STREET SQUARE
LONDON

00024111

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018